

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 19-23649-rdd

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5 In the Matter of:

6

7 PURDUE PHARMA L.P.

8

9 Debtor.

10 - - - - - x

11 United States Bankruptcy Court

12 Tele/Video Proceedings

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15

16 August 17, 2021

17 10:08 AM

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21 B E F O R E :

22 HON ROBERT D. DRAIN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: JUSTIN WALKER

1 HEARING re Continuance of Confirmation Hearing From August  
2 16, 2021

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25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

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3 WITNESSES:

4 GAYLE GALAN

5 RAHUL GUPTA

6 WILLIAM LEGIER

7 DAVID SACKLER

8 MICHAEL CUSHING

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1 P R O C E E D I N G S

2 THE COURT: Okay. Good morning. This is Judge  
3 Drain. We're here in In re Purdue Pharma, LP, et al, on the  
4 fourth day of the hearing on the Debtors' request for  
5 confirmation of their amended Chapter 11 plan.

6 I have the list of the testifying witnesses for  
7 today, and I'm happy to go down that unless any parties  
8 have any preliminary matters to raise that are relevant to  
9 the agenda for today.

10 MR. KAMINETZKY: Good morning. Judge Drain, this  
11 is Ben Kaminetzky of DavisPolk for the Debtors. No, Your  
12 Honor, we sent that revised list of experts just to give the  
13 Court a preview. I don't believe the first three witnesses  
14 that are the hospital witnesses there will be any  
15 substantive or much substantive cross-examination. And then  
16 we'll move on to Mr. Sackler.

17 The only note I make is that Mr. Cushing, who is  
18 scheduled to go after Mr. Sackler, we've been advised is in  
19 Switzerland and he's six hours ahead. So we'll see where we  
20 are. But that should hopefully work considering his  
21 schedule.

22 THE COURT: Okay. No thought was given to having  
23 him go before Mr. Sackler so that we don't have that time  
24 problem?

25 MR. KAMINETZKY: I'd defer to my colleagues on the

1 Sackler side. This was the order that they suggested,  
2 but -- well, there you are. Ms. Monaghan, do you want to  
3 respond to that?

4 MS. MONAGHAN: Sure. Thanks, Mr. Kaminetzky. So,  
5 Mr. Cushing's at your disposal. We just wanted to let  
6 everyone know that he has to be finished by 4:30, so it will  
7 depend on how long parties anticipate cross-examining Mr.  
8 Sackler.

9 THE COURT: All right.

10 MS. MONAGHAN: He can go earlier if need be.

11 THE COURT: Okay. Well, we'll see where we are  
12 after the first three witnesses.

13 So why don't we proceed then. As I understand it,  
14 the first witness to be called this morning is William  
15 Legier. I hope I'm pronouncing that right.

16 MR. O'NEIL: Judge, this is Michael O'Neil on  
17 behalf of the Hospital Group. I think we --

18 THE COURT: I'm sorry. You're going to have to be  
19 closer to the microphone.

20 MR. O'NEIL: I thought we had either Dr. Galan or  
21 Dr. Gupta up first, but we're happy to take them in whatever  
22 --

23 THE COURT: Oh, I thought you had changed the  
24 order so that Legier, Gupta, and Galan, we're going in that  
25 order. But if it's as per the original order of Galan,



1 Gupta, and Legier, that's fine, too.

2 MR. O'NEIL: Thank you, Judge. we'll get Dr.  
3 Galan on the line right now.

4 THE COURT: Okay. All right. So let's take Gayle  
5 Galan first.

6 (Pause)

7 THE COURT: Okay. I see Dr. Galan there.  
8 Would you raise your right hand, please?

9 Do you swear or affirm to tell the truth, the  
10 whole truth, and nothing but the truth so help you God?

11 MS. GALAN: Yes.

12 THE COURT: Okay. And it's G-A-Y-L-E, new word G-  
13 A-L-A-N?

14 THE WITNESS: Yes.

15 THE COURT: Okay. Dr. Galan, you submitted an  
16 amended declaration which under my order establishing the  
17 procedures for this hearing is intended to be your direct  
18 expert testimony. It's dated August 16th. Knowing that it  
19 would be your direct testimony and sitting here today on  
20 August 17th, is there anything in it that you wish to  
21 change?

22 THE WITNESS: No.

23 THE COURT: Okay. And it attaches in redacted  
24 form, as I understand has been agreed with counsel for Dr.  
25 Malanowski -- Masiowski, excuse me, Dr. Masiowski, an expert

1 report dated July 13, 2021. Knowing that that would be part  
2 of your direct testimony, is there anything in it that you  
3 wish to change?

4 THE WITNESS: No.

5 THE COURT: Okay. All right.

6 Is there any objection to the admission of Dr.  
7 Galan's amended declaration and the attached revised that is  
8 blacklined July 13, 2021 expert report?

9 MR. ROTHSTEIN: No objection from Dr. Masiowski.

10 THE COURT: Okay. Very well. And I gather from  
11 no one else either. And I appreciate, Mr. Rothstein, how  
12 you and counsel for the hospitals, I guess led by Mr.  
13 O'Neil, worked out your issue on this and the other two  
14 declarations.

15 So I will admit Dr. Galan's admitted declaration  
16 and her July 13, 2021 expert report that's attached to it as  
17 her direct expert testimony.

18 (Declaration of Gayle Galan Received Into  
19 Evidence)

20 THE COURT: Does anyone want to cross-examine Dr.  
21 Galan?

22 (No audible response)

23 THE COURT: Okay.

24 MS. QUIGLEY: Your Honor?

25 THE COURT: Oh, I'm sorry.

1 MS. QUIGLEY: I'm sorry, this is Michelle Quigley.  
2 I have a question.

3 THE COURT: Yes, go ahead.

4 MS. QUIGLEY: The July 13th expert report, is that  
5 the redacted report that was agreed to --

6 THE COURT: Correct.

7 MS. QUIGLEY: -- with counsel?

8 THE COURT: That's right. It's the one that's  
9 attached to the amended declaration.

10 MS. QUIGLEY: Okay. I just wanted to clarify  
11 that. Thank you.

12 THE COURT: And just to be clear, the redactions  
13 were agreed with counsel for Dr. Masiowski since --

14 MS. QUIGLEY: Yes. I'm sorry, Your Honor. You  
15 haven't met me.

16 THE COURT: -- Dr. Masiowski didn't submit an  
17 expert --

18 MS. QUIGLEY: I'm actually one of the counsel for  
19 Dr. Masiowski.

20 THE COURT: Okay. All right. So you understand  
21 the reasons for the redactions. All right.

22 MS. QUIGLEY: Yes.

23 THE COURT: So hearing no one who wants to cross-  
24 examine Dr. Galan and based on my review of the report, I'm  
25 not having any questions for her. The report's clear and

1 sets forth reviews so I don't have any questions. You can  
2 be excused, Dr. Galan.

3 THE WITNESS: Thank you.

4 THE COURT: Okay, thank you.

5 MR. O'NEIL: Thank you, Judge. May we add Dr.  
6 Gupta next?

7 THE COURT: Yes. If you can put Dr. Gupta or make  
8 sure Dr. Gupta signs on to the --

9 MR. O'NEIL: He should be out momentarily, Judge.

10 (Pause)

11 THE COURT: Okay. I see Dr. Gupta there on the  
12 screen.

13 Would you raise your right hand, please?

14 Do you swear or affirm to tell the truth, the  
15 whole truth, and nothing but the truth so help you God?

16 MR. GUPTA: I do.

17 THE COURT: Okay. And you can put your hand down.  
18 And it's Rahul, R-A-H-U-L; next word G-U-P-T-A?

19 THE WITNESS: Yes, Your Honor.

20 THE COURT: Okay. Dr. Gupta, you submitted an  
21 amended declaration dated August 16th, 2021. It attaches an  
22 expert report and opinions in redacted form. Under my order  
23 establishing the procedures for this hearing, the  
24 declaration and the attached report are intended to be your  
25 direct testimony. Knowing that, and I appreciate it's only

1 one day later, but sitting here on August 17th, is there  
2 anything in your declaration or the attached report and  
3 opinions that you wish to change?

4 THE WITNESS: No, Your Honor.

5 THE COURT: Okay. Does anyone object to the  
6 admission of Dr. Gupta's amended declaration and the  
7 attached report and opinions, again, in the blackline form  
8 as agreed to with counsel for Dr. Masiowski?

9 (No audible response)

10 THE COURT: Okay. And, again, I have reviewed  
11 that report. I don't have any questions on it. Does anyone  
12 wish to cross-examine Dr. Gupta?

13 (No audible response)

14 THE COURT: All right. Again, I have reviewed the  
15 report. And given its clarity, I don't have any questions  
16 of Dr. Gupta and no one else does either. So, Dr. Gupta,  
17 you can be excused.

18 THE WITNESS: Thank you.

19 THE COURT: Okay. Then I think the last witness  
20 now is Dr. -- I'm sorry, is William Legier.

21 MR. O'NEIL: It's actually pronounced Legier,  
22 Judge, but yes, he'll be out in just a second.

23 THE COURT: If you can get him on the phone.

24 (Pause)

25 (Court and Clerk confer)

1 THE COURT: All right. I see Mr. Legier there. I  
2 may have inadvertently turned you into a doctor, Mr. Legier,  
3 having heard from the prior two witnesses. But you're not a  
4 doctor, you're a CPA and forensic accountant, correct?

5 MR. LEGIER: Yes, sir.

6 THE COURT: All right. Would you raise your right  
7 hand, please?

8 Do you swear or affirm to tell the truth, the  
9 whole truth, and nothing but the truth so help you God?

10 MR. LEGIER: I do.

11 THE COURT: Okay. And it's William and then L-E-  
12 G-I-E-R?

13 THE WITNESS: Yes, Your Honor.

14 THE COURT: Okay. Mr. Legier, you submitted an  
15 amended declaration dated August 16, 2021. It attaches an  
16 expert report in redacted form as agreed to with respect to  
17 the redactions with counsel for Dr. Masiowski. Under my  
18 order establishing procedures for this hearing, the amended  
19 declaration and attached expert report are intended to be  
20 your direct testimony.

21 By sitting here today on August 17th, is there  
22 anything in them that you wish to change?

23 THE WITNESS: No, Your Honor.

24 THE COURT: Okay. Does anyone object to the  
25 admission of Mr. Legier's amended declaration and the

1 attached report?

2 (No audible response)

3 THE COURT: Okay. Does anyone wish to cross-  
4 examine Mr. Legier?

5 (No audible response)

6 THE COURT: All right. Again, I have reviewed Mr.  
7 Legier's report, and I have no questions on it based on that  
8 review. So hearing no one who wishes to cross-examine the  
9 witness, Mr. Legier, you can be excused.

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: Thank you.

12 MR. ROTHSTEIN: Your Honor, this is Paul Rothstein  
13 on behalf of Dr. Masiowski. I just have one minor issue  
14 that I want to announce to the Court that I'm deferring  
15 argument -- deferring it to the argument phase. We don't  
16 need to get into the details unless the Court requires it.  
17 But it's a minor matter, and I'm just going to raise it at  
18 our argument if we're not able to resolve it by then.

19 THE COURT: Okay. That's fine.

20 All right. But, again, this is -- I'm not  
21 recalling Drs. --

22 MR. ROTHSTEIN: Correct.

23 THE COURT: -- Galan or Gupta or Mr. Legier.

24 MR. ROTHSTEIN: Absolutely not.

25 THE COURT: Okay. Very well. Thank you.

1 All right. Well, it's only 10:20 or so here in  
2 New York. I don't know how long the intended cross of Dr.  
3 Sackler and more -- I think more likely the agreed  
4 examination of him as a witness called by the objecting  
5 state of Maryland is intended to be. If his testimony is to  
6 go longer than roughly 4:30, I think it may make sense to  
7 call Mr. Cushing instead and then go with David Sackler. I  
8 don't know if you could give me any estimate of that, Mr.  
9 Edmunds, Mr. Joseph, and others.

10 MR. EDMUNDS: Your Honor, Brian Edmunds, State of  
11 Maryland. I don't think it will possibly go to 4:30.

12 THE COURT: Okay.

13 MR. EDMUNDS: I mean we've done as Your Honor has  
14 said --

15 THE COURT: All right.

16 MR. EDMUNDS: -- and condensed significantly the  
17 examination. So I would think that we'll be done by  
18 lunchtime.

19 THE COURT: All right. That's fine. So why don't  
20 we then ask Mr. Sackler, that is David Sackler, to log on to  
21 the Zoom link.

22 MR. EDMUNDS: We're calling him now, Your Honor.

23 THE COURT: Okay.

24 Okay. I see Mr. Sackler on the screen.

25 Would you raise your right hand, please?



1 Do you swear or affirm to tell the truth, the  
2 whole truth, and nothing but the truth so help you God?

3 MR. D. SACKLER: Yes, Your Honor.

4 THE COURT: Okay. And it's David S-A-C-K-L-E-R?

5 THE WITNESS: Correct.

6 THE COURT: Okay. Mr. Sackler, I understand that  
7 you're going to testify first with respect to the  
8 declaration that you submitted as your direct testimony in  
9 this hearing and then testify as a witness called by the  
10 State of Maryland.

11 Let me turn first to your declaration. Under my  
12 order establishing procedures for this hearing, this  
13 declaration is intended to be your direct testimony. It's  
14 dated August 4, 2021. Knowing that it's intended to be your  
15 direct testimony and sitting here today on August 17th, is  
16 there anything in it that you wish to change?

17 THE WITNESS: No, Your Honor.

18 THE COURT: Okay. Does anyone object to the  
19 admission of the declaration as Mr. Sackler's direct  
20 testimony?

21 (No audible response)

22 THE COURT: Okay. I will admit it for that  
23 purpose.

24 (Declaration of David Sackler Received Into  
25 Evidence)

1 THE COURT: Does anyone want to cross-examine Mr.  
2 Sackler on his declaration?

3 MR. EDMUNDS: Your Honor, obviously, Brian Edmunds  
4 for the State of Maryland. We will combine cross with  
5 direct I think in this instance.

6 THE COURT: All right. And I think that's fine.

7 MR. EDMUNDS: But I don't know how others are  
8 going to cross or not.

9 THE COURT: That's fine. You're not waiving cross  
10 by including your questions as part of your direct  
11 examination of him as your direct witness.

12 Does anyone else wish to cross-examine Mr.  
13 Sackler?

14 MR. RUSSELL: Your Honor, William Russell of  
15 Simpson Thatcher on behalf of Gulf Underwriters Insurance  
16 Company. We have a few questions, but it may be appropriate  
17 to ask those questions after the State of Maryland's  
18 examination. It might actually obviate the need for us to  
19 ask questions.

20 THE COURT: All right. That's fine.

21 MR. RUSSELL: Thank you, Your Honor.

22 MR. HIGGINS: Your Honor, Ben Higgins for the  
23 United States Trustee. We did have some limited cross. I'm  
24 happy to wait until after Maryland or proceed now, whatever  
25 Your Honor prefers we do.

1 THE COURT: Why don't you go ahead now, Mr.

2 Higgins. I think that's fine.

3 MR. HIGGINS: Okay.

4 CROSS-EXAMINATION OF DAVID SACKLER

5 BY MR. HIGGINS:

6 Q Good morning, Mr. Sackler. My name is Benjamin  
7 Higgins, and I represent the United States Trustee. Can you  
8 hear me okay?

9 A I can. Good morning.

10 Q Good morning. You've testified that you and your  
11 family are only willing to support a resolution in which you  
12 receive broad releases under the plan. Is that correct?

13 A That is correct.

14 Q Are you familiar with the plan's definition of  
15 "shareholder-released parties?"

16 A I am.

17 Q Are you familiar with Appendix H to the disclosure  
18 statement that lists more than 1,000 line entries of parties  
19 receiving releases?

20 A I'm generally familiar with it, yes.

21 Q Are you aware that the Debtors filed a seventh amended  
22 plan last week?

23 A I am aware of that, yes.

24 Q Are you aware that the Debtors amended the definition  
25 of "shareholder-released parties" in that seventh amended

1 plan?

2 A I'm not sure I -- I'm aware of that.

3 Q Do you have a copy of the seventh amended plan?

4 A Yeah, I believe I do. Should I take it out?

5 Q Please.

6 A Give me one second, please.

7 Okay. I have it here.

8 Q Okay. Can you please turn to page 36?

9 A Okay.

10 Q Do you see the definition of "shareholder-released  
11 parties?"

12 A Yes, I see it.

13 Q Do you see (ii)?

14 A Yes.

15 Q Do you see that it lists the designated shareholder-  
16 released parties?

17 A I see that.

18 Q And this was in addition. That was not in the sixth  
19 amended plan. Are you aware of that?

20 A No, I'm not aware.

21 Q Okay. I'll save you the trouble of flipping to the  
22 definition of designated shareholder-released parties. I'll  
23 just tell you that it's defined as having the meaning set  
24 forth in the shareholder settlement agreement. Are you  
25 familiar with the shareholder settlement agreement?

1 A I have not memorized these documents, so I don't know  
2 precisely what you're getting at. I'm generally familiar  
3 with it.

4 Q Sure. Are you aware that the Debtors filed a plan  
5 supplement last week that included an unexecuted version of  
6 the shareholder settlement agreement?

7 A No, I'm not sure.

8 Q Are you generally familiar with the shareholder  
9 settlement agreement?

10 A I think generally, yes.

11 Q Have you signed a final version of the shareholder  
12 settlement agreement?

13 A Well, it's not been executed. I don't believe I've  
14 signed it, no.

15 Q And when do you expect it will be executed?

16 A I don't know. I'd have to defer to my lawyers on that.

17 Q Okay. Is it your understanding that the settlement  
18 agreement that is being approved as part of the plan has not  
19 been finalized yet?

20 A Well, I believe the plan has not been finalized yet,  
21 therefore, I don't know about the agreement. Again, I'd  
22 have to defer to my lawyers. This is getting into some  
23 technical legal stuff.

24 Q Are you aware that the shareholder settlement agreement  
25 defines the term "designated shareholder-released parties"

1 by referring to an exhibit that has been left blank on the  
2 most recently filed version?

3 A Again, I'd have to defer to my attorneys on this one.

4 Q Do you have an understanding as to whether or not  
5 parties could be added to the designated shareholder-  
6 released parties list that are not currently disclosed?

7 A I don't know.

8 Q You testified in paragraph 2 of your declaration that  
9 you and your family are only willing to support the plan if  
10 all civil claims against you for Purdue's opioid-related  
11 activities are fully, finally, and permanently released. Is  
12 that correct?

13 A Yes. And then I expanded upon that in paragraph 4 --

14 Q Right.

15 A -- to include all of Purdue's conduct.

16 Q And you're asking -- you're actually asking for a  
17 release of claims that also relates to non-opioid products.  
18 Is that correct?

19 A Yes; as paragraph 4 indicates.

20 Q And you're also seeking a release that goes beyond the  
21 claims that have actually been filed against you by states  
22 and other third parties. Is that correct?

23 A That is correct.

24 Q And if I could just direct you, no need to turn to it,  
25 I'm just going to read you some of the language from the

1 release provision in the plan, if that's okay.

2 A Okay.

3 Q You're seeking a release for claims related to the  
4 Debtor's "development, production, manufacture, licensing,  
5 labeling, marketing, advertising, promotion, distribution,  
6 or sale of non-opioid products or the use or receipt of any  
7 proceeds therefrom in each case including the Debtor's  
8 interaction with regulators regardless of where in the world  
9 any such activities for any result, loss, injury, or damage  
10 resulting therefrom occur."

11 Are you generally familiar with that portion of  
12 the release provision?

13 A I wouldn't say I'm familiar with it, but as you read  
14 it, I'm re-familiarized, I guess.

15 Q With respect to the portion of the release that relates  
16 to non-opioid provisions, isn't it true that you're seeking  
17 a release that would extinguish claims related to the  
18 Debtors' products that treat things like high cholesterol or  
19 constipation and that have nothing to do with opioids?

20 A Correct.

21 Q To your knowledge, are any of the lawsuits against you  
22 or your family completely unrelated to opioids or opioid-  
23 related activities?

24 A I don't know.

25 Q Do you have any knowledge of any lawsuits against you

1 or your family that involve completely non-opioid-related  
2 activity?

3 A I don't know of any, no.

4 Q Would you agree that you shouldn't receive a release  
5 for anything to do with tax liability?

6 A This is intended to be a global release or a full  
7 separation with the Debtor. I would defer to my attorneys  
8 on the individual pieces that are needed to effectuate such  
9 an outcome.

10 Q You're seeking a release related to the future use or  
11 misuse of opioid products. Isn't that correct?

12 A Correct.

13 Q And, again, I'm going to read you a little bit of the  
14 language from the plan. You're seeking a release for claims  
15 related to "any past, present, or future use or misuse of  
16 any opioid whether sold by the Debtors or by Newco or any of  
17 its subsidiaries or otherwise."

18 So you're seeking a release for claims based on  
19 conduct that may have not even occurred yet. Is that  
20 correct?

21 A Absolutely, yes.

22 Q And you're also seeking a release that would extinguish  
23 any claims related to fraud. Is that right?

24 A Yes.

25 Q To your knowledge, has any Sackler family member filed



1 for personal bankruptcy?

2 A Not to my knowledge, no.

3 Q Are you aware that liability related to fraud is not  
4 dischargeable for an individual debtor in personal  
5 bankruptcy?

6 A I'd have to defer to my lawyers.

7 Q In paragraph 4 of your declaration, you testified that  
8 your family has offered billions of dollars as part of the  
9 proposed shareholder settlement. Is that correct?

10 A That is correct, yes.

11 Q And under the plan, that money would be paid out over  
12 nine years or ten years if certain payments are made ahead  
13 of schedule. Is that correct?

14 A That's correct.

15 Q Do you have any understanding as to whether the amount  
16 of money your family will contribute under the plan will be  
17 more or less than your family's expected investment returns  
18 over the nine-year period?

19 A I don't think anybody can say that with any certainty.

20 Q Have any financial advisors informed you of whether --  
21 of what your family's expected investment return would be  
22 over that nine-year period?

23 A No, they have not. But their advice would be  
24 worthless. As you know, markets go up and down, and  
25 investment -- you know, past performance is no guarantee of

1 future performance.

2 Q In paragraph 4 of your declaration, you say that you  
3 look forward to the time that the billions of dollars your  
4 family has offered from the settlement can be put to work to  
5 abate the opioid crisis but also that your family won't  
6 agree to make the payments in the plan without the broad  
7 releases. Is that correct?

8 A That is correct, yes.

9 Q You're aware that several parties, including my office,  
10 nine states, and the United States Attorneys Office, argue  
11 that the proposed releases are impermissible?

12 A I am aware of that.

13 Q If the bankruptcy court decides that it won't or that  
14 it can't approve the releases as currently proposed because  
15 they're too broad, would you have to reevaluate your  
16 position?

17 A I'm not sure I understand your question.

18 Q Sure. Well, you've stated that you're only willing to  
19 pay the billions of dollars offered under the settlement  
20 agreement if you receive the releases currently proposed  
21 under the plan. Is that correct?

22 A That's correct.

23 Q So if the bankruptcy court decided that it wouldn't  
24 approve those releases, would you still be willing to  
25 fund -- would you still be willing to contribute money

1 toward the abatement of the opioid crisis?

2 A No. Not in this fashion, no. And it would result in a  
3 litigation posture is my understanding. I'd have to refer  
4 to my attorneys but, you know, I don't know of another forum  
5 that would allow this kind of global solution, this kind of  
6 equitable solution for all parties. And so, no, I believe  
7 we would litigate the claims to their final outcome. That's  
8 my guess, but I don't know exactly.

9 Q Have you considered whether there's an amount of money  
10 your family would be willing to pay to help abate the opioid  
11 crisis in exchange for a narrower release?

12 A No, I've not considered it. It's this release or --  
13 you know, I -- first of all, I'd have to defer to my  
14 attorneys. We need a release that is sufficient to get our  
15 goals accomplished. And if the release fails to do that,  
16 then we will not support it. How broad or how narrow that  
17 release has to be is a question for the lawyers. But as I  
18 understand it, this release is fairly -- is essential for  
19 the funding of that -- of the settlement.

20 Q In your declaration, you state at Paragraph 3 that you  
21 are deeply saddened by the opioid crisis and the fact that  
22 OxyContin, a product made by Purdue, played a part in it.  
23 You also state in Paragraph 5 that you believe your family  
24 has good legal defenses against the claims against it; is  
25 that correct?

1 A It's my testimony, and yes, I believe it.

2 Q Do you believe that the Sackler family or any of its  
3 members have any responsibility for the opioid crisis?

4 A Well, I think we bear -- because a product that we  
5 produced that has helped millions of people has also been  
6 associated with the opioid epidemic, I think we bear moral  
7 responsibility to try and help, and that's -- that's what  
8 this settlement is designed to do.

9 MR. HIGGINS: Thank you, Mr. Sackler. No further  
10 questions, Your Honor.

11 THE COURT: Okay. Thank you.

12 All right. I think -- well, let me ask. Does  
13 anyone else want to cross examine Mr. Sackler on his  
14 declaration before we go into Mr. Edmunds' examination?

15 All right, Mr. Edmunds. You can go ahead.

16 MR. EDMUNDS: Okay. Thank you, Your Honor.

17 CROSS EXAMINATION OF DAVID SACKLER

18 BY MR. EDMUNDS:

19 Q Good morning, Mr. Sackler. This is Brian Edmunds for  
20 the State of Maryland.

21 A Good morning.

22 Q Good morning. Before we go into some things, let me  
23 just do a few housekeeping matters. We have --

24 A Mr. Edmunds, it's a little bit hard to hear you.

25 Q Okay.

1 A Can you get a little closer?

2 Q Yeah.

3 A I'll turn up my speaker, but --

4 Q Let me see. Can you hear me now?

5 A Yes. Yes.

6 Q Okay.

7 A Thank you.

8 Q I'll try to lean forward like this. Let's -- before we  
9 get into the substance, let's go through a few housekeeping  
10 matters. I just want to make sure you received a packet of  
11 documents for purposes of this examination today. Did you  
12 receive about -- there are 50 or so documents sent  
13 electronically.

14 A I received 21 files through a -- something called  
15 Hightail. And then most recently, one PDF file was sent,  
16 but the number is not 50.

17 Q Okay. (Indiscernible). I'm sorry, Mr. Sackler. I  
18 (indiscernible) here.

19 A The number is not 50. I received 21 files on something  
20 called Hightail and then another lone PDF was sent to me a  
21 few minutes before the hearing began.

22 Q All right.

23 A So it's 22 files in all.

24 Q Okay. Well, we may have to -- I think there were more  
25 than that, but perhaps some were combined, and we may have

1 to reconcile --

2 M: I think that we got them in two different  
3 sets.

4 THE WITNESS: Oh.

5 M: Oh, so the 21 plus one was the ones that  
6 actually had exhibit numbers on them, but there was another  
7 set of files that had no numbers, and that may be the 50  
8 number, Mr. Edmunds, you're referring to.

9 BY MR. EDMUNDS:

10 Q That may be, but does he have them is the question?

11 A Well, I can -- I can -- let me try and find them.

12 Q They were sent last night. About 11:00 last night you  
13 have an e-mail from Benjamin Taylor with those files.

14 A Let's see. This is -- I have something at midnight.  
15 Is -- do you think that'll be it?

16 Q That (indiscernible).

17 A This only has one file in it. Oh, it's a zip drive.  
18 Hang on just a second. I'm sorry.

19 Q Okay. (Indiscernible).

20 A I apologize, Mr. Edmunds. This is coming in quite  
21 (indiscernible).

22 Q (Indiscernible). It's going. Just --

23 A I have -- this -- so there's a lot of files here,  
24 deposition exhibits. There's 11. I think I probably have  
25 everything.

1 Q That sounds about right, but you've got them. You've  
2 got access to it now.

3 A Yeah. I mean, because they came in batches, we may  
4 have to work to pull them up, but I will try and keep up  
5 with you.

6 Q I think that latter one probably includes everything  
7 that I'm going to ask about. I think it's probably  
8 cumulative. I think your testimony got moved, and so maybe  
9 there were two batches because of that. But I think that  
10 we're probably in good shape.

11 So let me also ask you -- it's my understanding that  
12 you've been listening to the confirmation hearing on the  
13 line throughout the course of proceedings; is that correct?

14 A I've listened to some, yes.

15 Q Okay. And when -- I suppose what times did you not  
16 listen? What times were you unavailable to listen?

17 A On Friday, I had some medical testing, so I was unable  
18 to listen for portions of that.

19 Q Did you listen all day Thursday?

20 A I believe so, yes.

21 Q And did you listen all day Monday?

22 A I may have missed a little bit, but substantively all  
23 of it.

24 Q All right. And you -- and you were previously deposed  
25 in this proceeding, is that right, in this bankruptcy?

1 A Yes.

2 Q And you should have a copy of that in the exhibit  
3 (indiscernible)?

4 A Yeah. I have -- I also have a hard copy that was  
5 requested.

6 Q Okay.

7 A Whichever you prefer.

8 Q Right. And have you had an occasion to review your  
9 deposition transcript before today?

10 A I'm sorry. There's a lot of paper shuffling, so I  
11 can't really hear you.

12 Q Okay.

13 A Did I have a chance, and then I lost you.

14 Q Had you had a chance to review your deposition  
15 transcript between the time it was taken and today?

16 A Yes. It was sent to me for verification and signature  
17 after -- after the fact. So yeah, I have reviewed it and  
18 signed it.

19 Q Okay. Did -- for the -- for the record, that is -- it  
20 was definitely the KXT987, but I think that the file in the  
21 document repository was (indiscernible) separate copy to the  
22 Court and (indiscernible).

23 MAN 1: Mr. Edmunds -- Mr. Edmunds,  
24 (indiscernible) one second.

25 Your Honor, with tremendous apologies, just so you



1 know, your mic is fully picking up.

2 THE COURT: Right. We're trying to find the  
3 deposition transcript. We have the exhibits but not the  
4 transcript.

5 MAN 1: Okay. Understood. I just wanted to make  
6 sure the Court knew the (indiscernible) papers and  
7 communications were audible to people.

8 Mr. Edmunds, apologies for interrupting. Just  
9 trying to help everybody be able to hear.

10 MR. EDMUNDS: Certainly.

11 BY MR. EDMUNDS:

12 Q Mr. Sackler, I had asked you that -- whether you'd had  
13 occasion to review the transcript before today, and I think  
14 you said yes. And I'm just going to ask are there any  
15 statements in the transcript that you made that are untrue?

16 A I'm sorry. I lost it again. Now there's some other  
17 noise on the line. Are there any statements --

18 Q That are inaccurate or -- inaccurate?

19 A I don't believe so.

20 Q Thank you. And you were --

21 A I just -- I just want to be clear. I mean, I don't  
22 believe so. At the time that deposition was taken was much  
23 earlier in the case, so events have transpired subsequently,  
24 but -- that may have obviated some of the testimony. But at  
25 the time it was given, I believe it was -- it was accurate.

1 Yes.

2 Q Okay. Thank you for that clarification, Mr. Sackler.

3 You served as a director of Purdue Pharma from 2012 to  
4 August 2018; is that right?

5 A I'm sorry, Mr. Edmunds. Again --

6 THE COURT: August -- then you faded out. August  
7 something.

8 BY MR. EDMUNDS:

9 Q Oh, August 2018. From 2012 to August 2018.

10 A Yes.

11 Q Before that time, had you been in contact with other  
12 directors, such as your father, regarding the operations of  
13 the company?

14 A I'm sorry. I'm still having very great difficulty  
15 hearing you.

16 Q I wonder if --

17 MAN 1: Yeah. Your Honor --

18 MR. EDMUNDS: (Indiscernible) not muted.

19 MAN 1: Your Honor, I'll take it on the chin here  
20 with apologies. With tremendous apologies and no disrespect  
21 intended, every time the door open and closes in the court  
22 or people bring you things, it actually cuts Mr. Edmunds'  
23 microphone out, and the witness can't hear anything. So  
24 please forgive me for mentioning it.

25 THE COURT: That's fine.

1 MAN 1: I think that actually --

2 THE COURT: I think we have all --

3 MAN 1: I think that is the source.

4 THE COURT: I think we have all the documents that  
5 -- now that were referred to at the beginning of this  
6 testimony, so I don't think we're going to be searching  
7 around anymore.

8 So apologies, Mr. Edmunds. If you can ask that  
9 question again.

10 MR. EDMUNDS: Thank you, Your Honor.

11 BY MR. EDMUNDS:

12 Q Mr. Sackler, you were -- I'll back up. You served as  
13 director for Purdue from 2012 to August 2018; is that right?

14 A That's correct.

15 Q And prior to the 2012, you were informed and -- you  
16 were informed about the operations of the company to some  
17 extent, weren't you?

18 A Not the operations so much. It was -- I was -- I  
19 remember discussing things like strategic alternatives and  
20 things like that, but not so much the operations. Like I  
21 had, for example, no idea how sales were doing or anything  
22 like that.

23 Q But you had conversations with -- such as -- with Board  
24 members such as your father, particularly regarding --

25 A I --

1 Q -- the operations of the company?

2 A You keep saying operations. I think that that's a term  
3 I don't agree with. I had conversations with him about the  
4 company, but it was certainly not about the day-to-day  
5 operations.

6 Q Fair enough. You have also served as a director of  
7 MNP; is that correct?

8 A That's correct.

9 Q Are you currently a director of MNP?

10 A The entity was renamed MNC, and yes, I'm a director.

11 Q The entity MNC has the same functions as the former  
12 entity, MNP; is that correct?

13 A Largely, yes.

14 Q And in that capacity, I believe you've testified, and  
15 you testified in your deposition that MNP makes  
16 recommendations to the family-owned IACs; is that correct?

17 A Yes. Recommendations to the Boards of those IACs, yes.

18 Q Recommendations to the Boards. You also serve as a  
19 director on some of the Boards; is that right?

20 A I'm not sure. I don't think that's the case, but it  
21 may have been in the past. It would've been very few in  
22 number.

23 Q Do you recall testifying in your deposition  
24 (indiscernible) affiliates in Germany, Australia, and in  
25 Britain (indiscernible) company?

1 MR. JOSEPH: Do we have a reference that we can --

2 THE WITNESS: Yeah. I -- can you refresh my  
3 memory? I don't remember that.

4 BY MR. EDMUNDS:

5 Q (Indiscernible) page. Your Honor, I'll withdraw and  
6 come back to that. I don't have the page right in front of  
7 me. I don't know if it's --

8 A Yeah. I -- if -- if --

9 Q (Indiscernible) need to do that (indiscernible). But  
10 let me ask, as a Board member of Purdue Pharma, as a  
11 director of Purdue Pharma, you attended Board meetings; is  
12 that right?

13 A Yes.

14 Q And you attended them regularly; is that correct?

15 A Yes.

16 Q And you also received what are called the Board books;  
17 is that correct?

18 A That's correct.

19 Q And what are the Board books that -- well, just  
20 describe them.

21 A It's an agenda really of what's going to be discussed  
22 along with presentations that management intends to give, so  
23 the slides in advance for people to study so that, you know,  
24 they can think about the issues.

25 Q Right. So you will receive typically an agenda

1 followed by tabs containing presentations; is that correct?

2 A That's correct.

3 Q And you read those; do you not?

4 A Yes.

5 Q And you also -- and how often would the Board meet?

6 A It varied. You know, generally about once every two  
7 months.

8 Q Okay. Was it ever more frequent than that?

9 A Well, there were -- there were times when it was a  
10 little bit more frequent than that just for scheduling where  
11 there'd be a budgeting meeting. There'd be a midyear  
12 meeting, and then those would throw off the calendar, so it  
13 would be a little bit more frequent for a period, and then -  
14 - my recollection is the cadence was roughly every six weeks  
15 to every two months, the six weeks being in those time  
16 periods that were sort of compressed by those special  
17 meetings. They're not special but those calendared  
18 meetings.

19 Q Okay. And those are the formal meet -- formal meetings  
20 of the Board of Directors. Were there also meetings among  
21 the directors that took place sort of within the formal  
22 meeting schedule?

23 A I'm not sure I understand your question.

24 Q Did you meet with individual directors or groups of  
25 directors outside of the formal meetings of the Board of

1 Directors that were called?

2 A Very infrequently. I mean, Directors are always free  
3 to talk with one another. But there weren't very many  
4 formal meetings of Directors outside of the presence of  
5 management, except for normal Board meeting functions, like  
6 executive sessions and things like that.

7 Q Would you say that on a regular basis, you engaged in  
8 informal communications with other Purdue Directors?

9 A I don't know what you'd define as regular basis. I  
10 don't recall it being overly burdensome.

11 Q On a day-to-day basis, would you have communications  
12 with other Directors?

13 A I don't think so, no.

14 Q Would you communicate by email with other Directors?

15 A At times, yes.

16 Q I want to ask you, at the time you became a member of  
17 the Purdue Board, you were aware that opioids were  
18 addictive, were you not?

19 A Yes. It's a facet of all opiates. Yes, I was aware.

20 Q And you were aware that opioids had killed at that time  
21 tens of thousands of people, right?

22 A I'm sorry. I'm having trouble hearing you, Mr.  
23 Higgins.

24 Q Yeah. I'm having trouble hearing you. I'll just --  
25 I'll keep going. You were aware at the time you became a

1 Director of Purdue Pharma that opioids were killing tens of  
2 thousands of people, were you not?

3 A Yes. I was aware that there was an ongoing problem of  
4 opioid overdose.

5 Q And that opioid overdoses would kill thousands more in  
6 the years on which you served on the Board. Is that right?

7 A Well, I didn't know that at the time I joined. But,  
8 you know, so I don't know how to answer that question  
9 exactly.

10 Q Did you have an expectation as to whether that trend  
11 that had happened in the past would keep going?

12 A Well, I didn't think that it was likely to stop, though  
13 I was hopeful that, you know, efforts by the federal  
14 government and by companies like Purdue, at least on the  
15 prescription side, could help. And then, you know, the  
16 illicit market isn't something that really industry could  
17 help. But that's -- you know, hopefully the federal  
18 government could help abate that, along side maybe some  
19 states. But you know, obviously, we were all hoping for the  
20 best.

21 Q You were hoping for the best, but did you expect that  
22 increasing Purdue Pharma sales would help with the problem  
23 of people dying of opioid overdoses?

24 A Sorry. I'm having -- it's just very, very hard to hear  
25 you.



1 Q Yeah, very --

2 A Can you try that one again?

3 Q -- (indiscernible) and I don't know --

4 MR. HUEBNER: Yeah. Hey, Your Honor, I'm sorry.

5 Just for the record, there are now three unmuted boxing  
6 coming from the courtroom. One is chambers RDD, where  
7 there's no video feed. One is Your Honor himself. And then  
8 the third is the 0020120. I don't remember seeing the  
9 chambers RDD box before as unmuted. It may be that there is  
10 double feedback coming from within the courtroom. My fear  
11 also is based on prior transcripts. We may get a very  
12 incomplete transcript because the audio is actually quite  
13 challenging for I think those who are listening. So again,  
14 I'm just trying to be sort of a friend of the people here  
15 and help (indiscernible) to the listening public. If the  
16 other one -- I see someone has now muted the 0020120. That  
17 then leaves a second one, which is chambers RDD. Clearly,  
18 that needs to be unmuted. Obviously, you're the Court and  
19 we're just (indiscernible). But I did want to point it out,  
20 just in case technologically that's the source of the  
21 distortion of the audio, because I think Mr. Edmunds and Mr.  
22 Sackler --

23 THE COURT: The person running it says it's not,  
24 but --

25 MR. HUEBNER: Okay.

1 THE COURT: -- you should unmute -- you should  
2 mute everything except my mic.

3 MAN: (indiscernible)

4 THE COURT: Everything is muted, I'm told, except  
5 --

6 MR. HUEBNER: Okay.

7 THE COURT: -- except Mr. Edmunds and the witness  
8 and my mic.

9 MAN: (indiscernible)

10 MR. HUEBNER: Thanks, Your Honor. Please don't  
11 blame the messenger. I'm just trying to help.

12 THE COURT: Okay.

13 MR. EDMUNDS: Thank you, Mr. Huebner. Thank you,  
14 Your Honor. It does seem to be better at this point, I  
15 think.

16 BY MR. EDMUNDS:

17 Q Mr. Sackler, my question was, did you expect the  
18 increase in Purdue Pharma sales of opioids would help in  
19 preventing the future deaths of (indiscernible) of Americans  
20 from opioid overdoses?

21 A You know, I believe actually the answer, in my  
22 expectation, was yes. And the reason I believe that is  
23 prior to my joining the Board, Purdue had reformulated  
24 OxyContin to make it abuse-deterrent. And that  
25 reformulation, while the data that I was able to review when

1 I joined the Board had been successful at reducing the  
2 product's incidence of nasal and injectable use.

3 Furthermore, the company was spending hundreds of  
4 millions of dollars developing other abuse-deterrent  
5 opioids, which we hoped we could bring to market. So the  
6 idea in increasing the sales was to take market share from  
7 non-abuse-deterrent products, thereby reducing abuse and  
8 diversion of the category as a whole, and hopefully thereby  
9 having a positive effect on opioid overdoses.

10 Q And in fact, opioid overdoses went up during the time  
11 since you became a Director of Purdue Pharma, did they not?

12 A They have gone up, and Purdue's market share has  
13 declined. So, obviously, you know, the hopes I had for  
14 increasing Purdue's sales were not realized.

15 Q Is there a document that you have that lays out these  
16 hopes that you had for increasing Purdue's market share and  
17 thereby reducing the contribution of Purdue to the opioid  
18 prices?

19 A Sure. I'm certain it's dotted throughout the Board  
20 presentations over my years on the Board. It was a huge  
21 emphasis of management. The driving strategy of the company  
22 when I joined the Board was abuse-deterrent opioids and how  
23 important they were for public health in the United States,  
24 and how important it was to try and convert as much of the  
25 market as possible.

1           So while I don't have them at hand, I am certain  
2           that throughout the record they exist in great number.

3           Q     Well, I understand that Purdue has marketed opioids,  
4           and OxyContin in particular, as abuse-deterrent. But is  
5           there a document that lays out your theory that that is why  
6           you, as a Board Member, were promoting those drugs?

7           A     I'm not sure if there is --

8           MR. JOSEPH: I'm going to object to the form, that  
9           he as a Board Member was promoting drugs.

10          THE COURT: Okay. I think it's understood that  
11          what you were talking about was the -- as Mr. Sackler  
12          testified, the Board and the company's primary strategy.

13          THE WITNESS: Yeah. And I -- Your Honor, should I  
14          answer the question?

15          THE COURT: Yes.

16          THE WITNESS: Okay.

17          BY MR. EDMUNDS:

18          A     I believe there should be quite a few documents  
19          throughout the -- throughout the record, though I don't have  
20          any at hand.

21          Q     Can you identify specifically, even describe a single  
22          document that makes the claim -- in which you make the claim  
23          that you're making now, that that was your reason for  
24          joining -- or that that was your policy -- and that was your  
25          policy in joining the Board of Directors?

1 A Well, I don't have an exhaustive record of the  
2 documents in my head. I know what I believed when I joined  
3 the Board of Directors. And what management presented to  
4 the Board orally, as well as in presentations, was focused  
5 on abuse-deterrent opioids. And I know the hundreds of  
6 millions of dollars that were spent in that effort.

7 So while I don't have a specific document to cite  
8 for you, I'm just giving you my understanding of where the  
9 company was when I joined the Board.

10 Q But that's the answer to my question. There isn't a  
11 document in which you have laid out the theory that you have  
12 described just now in writing?

13 A I believe that there are documents that should help  
14 support it, though I don't know. I do not have an  
15 exhaustive record of the tens and tens of millions of  
16 documents that have been observed in this case. So while I  
17 can't give it to you (indiscernible) I'm just giving you my  
18 impressions as a Director joining the Board.

19 Q All right. You heard Mr. Lowne's testimony, did you  
20 not?

21 A I believe so, yes.

22 Q And did you hear Mr. Lowne confirm that Purdue, after  
23 February 2018, continued to market both opioids and an  
24 opioid induced constipation drug through the (indiscernible)  
25 sales force to opioid prescribers?

1 A Yes.

2 MR. JOSEPH: Objection. If there's a reference to  
3 testimony, that's not my recollection of it. I think we  
4 ought to be directed to the exact testimony.

5 THE COURT: Well, he just answered yes, so...

6 MR. JOSEPH: Oh, well, I remember vaguely Mr.  
7 Lowne being questioned about some (indiscernible) marketing,  
8 so I was going to say -- I was going to say I didn't  
9 remember the exact testimony, but --

10 BY MR. EDMUND:

11 Q Do you contend that Purdue did not promote opioids and  
12 opioid induced constipation drugs at the same time through  
13 its sale force after February 2018?

14 A I'm sorry. I'm not sure I understand your question.

15 Q After February --

16 THE COURT: I think -- maybe if you could make it  
17 not compound. There are two different points. Two  
18 different types of products.

19 MR. EDMUNDS: All right, Your Honor.

20 BY MR. EDMUNDS:

21 Q You understand that Purdue marketed the drug Symproic  
22 through a sales force following February 2018?

23 A I believe that's the case, though, you know, management  
24 was making the marketing decisions at, you know, all times,  
25 but at that time as well. The Board supported management in

1 its desire to end opioid marketing. And I believe there was  
2 a Q-month period when Symproic was still promoted. But, you  
3 know, these are really questions that should be directed to  
4 management (indiscernible).

5 Q Well, I don't know. We'll see. But do you -- you  
6 understand that in February 2018, the Board issued a press  
7 release for -- I'm sorry -- Purdue issued a press release in  
8 which it told the American public that it would -- it had  
9 stopped or would stop marketing opioids (indiscernible). Do  
10 you recall that?

11 A Well, I recall -- no, I don't recall the press release,  
12 but I'll take your --

13 Q What we take a look at it. And I will direct you to  
14 the document you've been sent.

15 A I'm sorry. I can't hear you, sir.

16 Q Yeah, we still have -- why don't I -- I'll direct you  
17 to this press release, and if you could take a look in the  
18 documents that you have been sent, it is in the folder as JX  
19 (indiscernible) -- a file name beginning with JX-2458.

20 A I don't see a 2458. There's so many --

21 Q I believe it may be on the second set --

22 A Oh, no, I've got it.

23 Q -- the second set.

24 A I got it. Okay.

25 Q Could you take a look at this document, Mr. Sackler?

1 A I see this document.

2 Q And you see that it says -- it is a press release from  
3 Purdue Pharma and that it says that Purdue will no longer --  
4 we have (indiscernible) -- we have restructured and  
5 significantly reduced their commercial operations and our  
6 sales representatives will no longer promote opioids to  
7 prescribers. Is that right?

8 A What do you mean, is it right? That's what the  
9 document says.

10 Q Well, that's the question. That's what it says?

11 A Yes.

12 Q And you understand that Purdue issued that press  
13 release and that statement on February 9, 2018, did it not?

14 A No, I don't recall it offhand. But that's what it says  
15 here, and I have no reason to dispute it.

16 Q That was not a decision that would have been made by  
17 the Board?

18 A The decision to -- as I recall it, it was a management  
19 proposal to cease prescribe -- cease promoting products to  
20 doctors -- or to cease promoting opioid products to doctors.  
21 And the Board was supportive of it. I think management had  
22 a vision, as I recall at the time, of winding down the whole  
23 salesforce. But because of some issues with some Symproic,  
24 wanted to continue it for a few months. But that's what I  
25 recall. This was a management-led initiative, and the Board



1 was supportive of it.

2 Q The Board was supportive of it. So the Board approved  
3 of it?

4 A As I said, yeah, the Board was supportive of it, of  
5 CC-ing the promotion to doctors. Yes, the Boards in --

6 Q Was this a decision -- I guess we're -- we still have  
7 (indiscernible) here, but I'm not sure. Was this a decision  
8 that had to be made by the Board of Directors of Purdue  
9 Pharma?

10 A I -- you know, I don't know because management proposed  
11 it and the Board supported it. So I don't know what was  
12 required. Could management have done this on their own? I  
13 would assume so. So, I -- but I don't know. I'd have to  
14 refer to counsel to know exactly what the bylaws state. You  
15 know, I -- but I assume management could've done this on  
16 their own had they wanted to.

17 Q Well, is it your position that Purdue stopped marketing  
18 opioids through its salesforce in February of 2018?

19 A As far as I know. I have no reason to dispute that.  
20 As I said, the Board was not involved with day-to-day  
21 marketing operations. So, if that's what this represents  
22 and that's what we were told by management, I don't have a  
23 reason to dispute it.

24 Q So that's your testimony, the Board was not involved in  
25 this decision.

1 A No, as I -- look, I think my testimony's been clear.

2 Management came to the Board with this proposal. The Board  
3 was supportive of it. Management then went away and  
4 executed the proposal.

5 Q I'm sorry. (Indiscernible).

6 A I'm sorry. Am I --

7 THE COURT: I think he finished his answer.

8 BY MR. EDMUNDS:

9 Q All right. I think we're -- and let me turn you to  
10 another exhibit that you have there. This one is JX1688,  
11 Mr. Sackler, and it -- the file name begins with JX1688.  
12 Can you pull that up?

13 A I see it, yes.

14 Q Okay. And I am going to ask you to, first of all, take  
15 a look at this document and see if you can identify what it  
16 is.

17 A I'm sorry. See if I can what? Something.

18 Q Can you identify what it is, this document?

19 A Yes, it's a -- what you refer to as a Board book, but  
20 it's the agenda for a meeting of the U.S. Boards of  
21 Directors.

22 Q Okay. And the U.S. Boards of Directors of Purdue  
23 Pharma then met -- and debtors met on January 30, 2018 and  
24 continued to meet through February 1, 2018; is that right?

25 A I just -- I'm sorry. Is there -- there's so much

1 interference I can't tell if there's --

2 Q I understand.

3 A -- an objection or what and I don't want to speak over.

4 I apologize. I don't know if all of those hours were

5 filled. Quite often the time is illustrative, and we would

6 get through items much faster than what was here.

7 Q Sure, but there was a board meeting on those dates,  
8 right?

9 A Well, it was scheduled. I don't know. For example, we  
10 might've finished and canceled Thursday, but this is what  
11 was scheduled --

12 Q Right.

13 A -- so I don't --

14 Q It was scheduled for --

15 A -- recall offhand.

16 Q A board meeting took place in approximately that time;  
17 isn't that right?

18 A Yes. I'm not sure I mean to quibble with you. I'm  
19 just --

20 Q Well --

21 A -- with the three days' matter, I can't tell you with  
22 certainty if we met a full three days.

23 Q I'm not sure it matters, but this procedure  
24 (indiscernible) about eight days; is that right?

25 A Sorry, I can't -- it's very hard to hear you. This

1 press release and then I lose you.

2 Q Given when the meeting actually took place, or whenever  
3 the meeting took place over this period, this predates the  
4 press release I just showed you previously by about eight  
5 days; is that right?

6 A I assume that's right based on the dates, yeah. That's  
7 what it appears.

8 Q Right. And this is not only an agenda on pages U.S. 1  
9 and U.S. 2, but it also contains the tabs we discussed  
10 earlier that are -- that appear along with the Board agenda  
11 in the -- in what's called the Board books, right?

12 A I think that's --

13 Q (Indiscernible)?

14 A I think that's correct. There was a lot there. I --  
15 can you just break it down for me so that I'm precise here?

16 Q This is the Board book; is that right?

17 A Well, you're calling it the Board book. I have no  
18 reason to dispute it, so --

19 Q I mean, I don't think it's my --

20 A -- this is --

21 Q I'm sorry. Go ahead.

22 A Well, I don't know what I would call it. I would call  
23 it the agenda for the meeting, and it absolutely has slides  
24 attached to it that outline the management items that were  
25 on the agenda for this meeting.

1 Q Okay. Take a look if you would at page U.S. 7. I  
2 think it's the seventh --

3 A U.S. 7.

4 Q -- the seventh page in the PDF with the...

5 A Page 7, the one that's titled Our Operating  
6 Assumptions? There are so many page numbers here it's hard  
7 to --

8 Q Well, I --

9 A Or Summary of Actions? Which maybe you can give me the  
10 title of the page and I'll find it.

11 Q I will. Just give me a second. I've lost the --  
12 (indiscernible) myself here. Yeah, I think it's the seventh  
13 page of the PDF.

14 A Okay. I'm there. It's titled Summary of Actions.

15 Q Yeah, I think it had something -- in the Summary of  
16 Actions, you know, this is a presentation of the Board,  
17 correct?

18 A Yes. This is a presentation to the Board by management  
19 of the summary of the actions taken to-date since the  
20 management change, yes.

21 Q And these are some of the steps that the Board is being  
22 told that management is taking at this time, right?

23 A Yeah, it's a list of what management was doing at the  
24 time since the CEO management change.

25 Q Okay. And if you'll scroll down to the next page,

1 you'll see that one of those -- one of the operating  
2 assumptions is that -- they need -- that Purdue needs to be  
3 based off a probability in the face of a challenging  
4 environment, right?

5 A Yes.

6 Q And that bold and immediate action is required.

7 A Yes, I see where it says that.

8 Q Okay. And that you will have a going concern in the  
9 pharmaceutical space; is that right?

10 A That's what it says here, yes.

11 Q Do you understand what that means that you have a going  
12 concern in the pharmaceutical space?

13 A I believe that it relates to management's belief that  
14 it could settle the lawsuits that had materialized at this  
15 page -- at this point for a manageable amount of money.

16 Q Okay. And that --

17 A -- (indiscernible).

18 Q Okay. It reflects in some way the concern with the  
19 losses and litigation the company is facing, right?

20 A Well, it's -- of course, you know, given the volume of  
21 lawsuits, there was concern, and this indicates management's  
22 belief that they could be settled for a manageable amount of  
23 money by the debtor.

24 Q Okay. Let me ask you to scroll, I believe it's the  
25 next tab, but let's look at the (indiscernible). Hey, could

1 you scroll to page U.S. 17, Mr. Sackler?

2 A Okay. I could do that. Maybe it'd be easier to just  
3 stick with either the U.S. page numbers, or the PDF page  
4 numbers. They seem to be identical.

5 Q I think they're the same.

6 A Okay.

7 Q They're --

8 A That's fine with me.

9 Q Yeah, that's -- I know there's a Bates number on it.  
10 We'll just worry about --

11 A Okay. Go ahead, please.

12 Q -- the numbers. And you could see these two actions be  
13 considered to optimize the business, right?

14 A I think I got your question, but I'm going to ask you  
15 to repeat it because --

16 Q The title is these two actions have been considered to  
17 optimize the business, right?

18 A That's correct.

19 Q And one of the items under sales and marketing being  
20 presented to the Board is the need to optimize the  
21 (indiscernible) plan; is that right?

22 A That's what it says here.

23 Q And I would have you go now to U.S. 27 or page 27 of  
24 the PDF.

25 MAN: Mr. Edmunds, quick question. I'm working in

1 the background to try to solve the technical problems we're  
2 all experiencing. And given the public import of this  
3 trial, obviously, I think having a transcript that is  
4 complete is important to many people. Is there a chance you  
5 could use headphones because the consensus appears to be  
6 that it might actually be the source of your audio.

7 So I really don't mean to impose or disrupt you,  
8 but I just respectfully suggest if it's possible for you to  
9 pop in air pods or something, it might actually solve the  
10 problem. But again, please forgive the intrusion. I'm  
11 just, as always, trying to field emails and texts from many  
12 people trying to make the trial as public and efficient as  
13 possible.

14 MR. EDMUNDS: Again, I may have just -- maybe I  
15 don't need -- can you hear me?

16 THE COURT: I can, yes.

17 MR. EDMUNDS: Okay. And does that improve the --

18 THE COURT: Yes.

19 MAN: A lot. A lot.

20 MR. EDMUNDS: Okay. Okay.

21 MAN: It is a radical improvement. Thank you so  
22 much, Mr. Edmund.

23 MR. EDMUNDS: So I'm not sure -- I mean, it is the  
24 same setup I had yesterday, so I apologize if it is my  
25 fault. I'm not sure what's happened to the system here.



1 BY MR. EDMUNDS:

2 Q Okay. So I believe I've asked you, Mr. Sackler, to  
3 turn to page U.S. 27.

4 A I'm there.

5 Q Okay. And on page U.S. 27, the company or the sale --  
6 the executives are presenting to the Board a plan to  
7 optimize Symproic for the rapidly changing market, right?  
8 Do you see that? It's several lines down.

9 A That's what it says here, yeah.

10 Q All right. So that's being presented to the Board.  
11 And another immediately above that, the Board is being told  
12 that it is going to -- or that Purdue is going to reduce the  
13 traditional investment in opioids and approach that market  
14 differently, did it not?

15 A That's what it --

16 Q Do you see that?

17 A -- says here.

18 Q Okay. All right. Why don't we turn to another  
19 document? And the next one we will put up is JX1689, which  
20 you should have in front of you or in your folder.

21 A I have it.

22 Q Okay. And JX1689 is another what I -- agenda followed  
23 by tabs of presentations to the Board, right?

24 A Yes.

25 Q And this is a meeting that was actually held of the

1 Board, right?

2 A I believe so, yes.

3 Q Okay. And this follows the announcement, the press  
4 release, that we've looked at, right?

5 A Yes, in time it does.

6 Q Okay. And you would've read this document as a  
7 director?

8 A Yes, I believe I would've.

9 Q Okay. Now, I would like you to turn -- so this follows  
10 the announcement that Purdue has discontinued marketing  
11 through a -- opioids through a salesforce, right?

12 A In time it follows the press release, yes. We -- I  
13 said yes to that.

14 Q Okay. I apologize if you did. Would you scroll down,  
15 please, to U.S. 16 of this document? And I believe it's the  
16 same as before. The PDF page numbers will follow the...

17 A I don't see anything on page 16 other than a title  
18 slide for opioid analgesics. Is that what you're looking  
19 for?

20 Q Give me a moment to scroll. U.S. 17, rather. But yes,  
21 there's a title slide for opioid analgesics. And under that  
22 title slide there is a statement to the Board.

23 A Correct.

24 Q And it says we remain committed to patients and  
25 healthcare professionals and will always remain steadfast to

1 supporting responsible opioid utilization, right?

2 A That is what it says here, yes.

3 Q And an acronym for that that is used with the company  
4 is SROU; is that right?

5 A It's the first time I've heard it, but --

6 Q Okay.

7 A -- there is no --

8 Q Or it may not be, but continue. If you would scroll  
9 down, in this presentation on opioid analgesics on the next  
10 page, which is U.S. 18, it says our engagement model has  
11 changed, right? You see that?

12 A Yes.

13 Q And this was presented to you as a member of the Board,  
14 right?

15 A Correct.

16 Q And it says --

17 A From management to the Board, yes.

18 Q From management to the Board at a meeting. And it  
19 indicates that Perdue Pharma will continue through the  
20 Symproic sales force to call on 29,000 -- 25,000, rather,  
21 330 call plan HCPs for Symproic; is that right?

22 A That's what it says, yes.

23 Q So this information about what Perdue was doing with  
24 respect to Symproic was, in fact, presented to the Board.

25 A Okay. Yes.

1 Q So --

2 A I don't follow. I don't think I was disputing with you  
3 that management would present something like this, so I  
4 won't --

5 Q And did you -- did the Board instruct management to  
6 stop --

7 A No.

8 Q -- to selling to those healthcare providers with the  
9 salesforce?

10 A Well, as I recall at the time, what was happening was  
11 the debtor Perdue was negotiating an exit from Symproic with  
12 the company we had licensed it from. So the idea was we  
13 contractually had a certain number of calls that we had to  
14 make with our salesforce to honor that contract. And while  
15 they were negotiating the exit from that contract, which  
16 would fully eliminate the field force, they were going to  
17 continue to call on physicians for Symproic to honor the  
18 contract so we wouldn't breach. That process, until we got  
19 out of that license, I think took about another two months.  
20 So that was the plan at the time. It won't be presented  
21 here because, you know, the discussions were ongoing and  
22 more highly confidential with, I believe it was Takeda that  
23 Perdue or the debtor had wanted to exit.

24 Q It was Shionogi, in fact.

25 A I'm sorry.

1 Q Is that right?

2 A Shionogi, yeah.

3 Q And at the time, contrary to what you're saying, you  
4 were in negotiations trying to get Shionogi to reduce the  
5 price to Perdue Pharma of marketing Symproic of its co-  
6 marketing arrangement in marketing Symproic; is that right?

7 A I -- you know, I wasn't -- management was handling the  
8 negotiations with Shionogi. I was not. As I understood it  
9 at the time that the desire was to just exit from the  
10 product totally, and I think that that's what happened.

11 Q Do you deny that the Board received presentations about  
12 the ongoing negotiations with Shionogi over the price of the  
13 -- the price that Perdue paid in order to co-market  
14 Symproic?

15 A I have no reason to dispute that. I'm sure management  
16 presented to the Board a sensitive negotiation that they  
17 were engaged in.

18 Q And do you understand that negotiation to have been  
19 over price, not what you said earlier about negotiating an  
20 exit?

21 A That's not my recollection at all, but, you know, the  
22 management may have gone through a number of phases of  
23 trying to make Symproic a viable, profitable business for  
24 Perdue. So they may have negotiated on price first and then  
25 decided to exit later. You know, this is a management

1 negotiation, and so what I was told when I was told, you  
2 know, I just -- I can't recall. The ultimate decision was  
3 to exit Symproic. It was all by Shionogi.

4 Q Okay, but at least at this time, right, based on these  
5 presentations and Mr. Lowne's testimony, it appears that  
6 Perdue continued to market both Symproic and opioids to  
7 healthcare providers who prescribed opioids; isn't that  
8 right?

9 MR. JOSEPH: Objection.

10 MR. SACKLER: I'm sorry. Go ahead.

11 THE COURT: What's the basis for the objection?

12 MR. JOSEPH: Your Honor, if we're going to refer  
13 to the testimony, we ought to see the testimony. That's not  
14 my recollection that Lowne said opioids were continuing to  
15 be marketed, just Symproic, which is not an opioid.

16 MR. EDMUNDS: I mean, I --

17 THE COURT: Again, Mr. Edmunds, I think --

18 MR. EDMUNDS: -- don't believe --

19 THE COURT: I sense it's a compound question  
20 because you're asking about two different products. So  
21 maybe you should ask it --

22 MR. EDMUNDS: Well --

23 THE COURT: -- with respect to both products  
24 separately. Or if you want to, you could refer to Mr.  
25 Lowne's testimony.

1 MR. EDMUNDS: I can, but I can't exactly. I have  
2 his -- I have the -- I guess the text readout from --

3 THE COURT: Well --

4 MR. EDMUNDS: -- Live Note --

5 THE COURT: -- we have the testimony, but --

6 MR. EDMUNDS: -- but I don't have the --

7 THE COURT: -- again, if you -- you can ask the  
8 witness two questions, one about each product.

9 MAN 2: (indiscernible).

10 MR. EDMUNDS: Okay.

11 THE COURT: Or each type of product.

12 BY MR. EDMUNDS:

13 Q I suppose my question would be that if Mr. Lowne  
14 testified that Perdue continued to market opioids alongside  
15 Symproic, so the question's about opioids, you wouldn't have  
16 any reason to dispute that, would you?

17 A Yes, I would. That's not my recollection at all,  
18 though, you know, your definition of marketing, I think, is  
19 broader than what this presentation's going to, which is  
20 talking about sales representatives. I believe from what I  
21 recall of the Lowne testimony, you also include medical  
22 science liaisons in that. And I don't know anything about  
23 that program, but as far as sales reps go, as you can see,  
24 the Board was told that promotion of opioids by sales reps  
25 to doctors was to cease.

1 Q I see that the Board was -- well, and I think the  
2 document says something different, but --

3 A Okay. Well, Mr. -- please direct me to where it says  
4 that because right here I say no field-based opioid  
5 promotion. That's what the Board was told. So if this  
6 document says something different than that, because it's  
7 very plain to me, please point it out to me and I'd love to  
8 respond to it.

9 Q Well, this is a presentation about opioid analgesics,  
10 isn't it?

11 A Which says --

12 Q And you've seen the lines that say "approach the market  
13 in a different way".

14 MR. JOSEPH: May he answer the question?

15 MR. EDMUNDS: Sure.

16 BY MR. EDMUNDS:

17 A It is a presentation that's dealing with a range of  
18 topics, in this case engagement model, and it says very  
19 clearly no field-based opioid promotion. I don't understand  
20 the dispute.

21 Q So you would interpret this document as saying that --  
22 and Mr. Lowne's testimony as suggesting that Perdue did stop  
23 marketing opioids.

24 MR. JOSEPH: Object --

25 BY MR. EDMUNDS:



1 Q That's your interpretation, your --

2 MR. JOSEPH: Objection. May we do them one at a  
3 time?

4 MR. EDMUNDS: Sure. I'm going to have to -- I  
5 think that I am going to have to replace the headphones,  
6 which are unfortunately running low, I guess. So I guess  
7 I'm back on regular. Let me see if I can...

8 BY MR. EDMUNDS:

9 Q Mr. Sackler, these documents could be read...

10 A I'm sorry. Was that a question?

11 Q No, it's not. Your interpretation of this document is  
12 what you have said, right?

13 A I'm simply reading the line on it, which I don't think  
14 leaves a lot of room for interpretation, but I guess that's  
15 fair. I'm interpreting a simple sentence to mean what it  
16 says. That's correct.

17 Q Well, I don't know if it's a simple sentence. Based on  
18 everything that you have seen, your interpretation is all of  
19 these statements that we've just reviewed say what you claim  
20 they are, what you claim they mean, right?

21 MR. JOSEPH: Objection. Vague. "All of these  
22 things that we've reviewed"?

23 BY MR. EDMUNDS:

24 Q We've reviewed several statements across a few  
25 documents, Mr. Sackler; is that right?

1 A Mostly you just have me confirm that they say certain  
2 things, but yes.

3 Q Right. So those statements. I'm asking about those  
4 statements. You are offering an interpretation of those  
5 statements; is that right?

6 MR. JOSEPH: Objection. He's responding to  
7 questions.

8 BY MR. EDMUNDS:

9 Q And in your answers, you offer an interpretation -- you  
10 have just offered an interpretation of what you think those  
11 statements mean, have you not?

12 A I --

13 THE COURT: You can answer that question.

14 BY MR. EDMUNDS:

15 A I'm -- well, I don't want to take us backwards from the  
16 last hour. I don't recall giving you interpretations for  
17 all of it. I've given you certainly my belief that  
18 management was correct in what they told us, that there  
19 would be no field-based opioid promotion. That was my  
20 belief. That's my interpretation of a sentence that says  
21 "no field-based opioid promotion", yes.

22 Q But at any rate, these documents and this issue came  
23 before the Board; is that right?

24 A Yes, as we've established.

25 Q So if it turns out that Perdue was continuing to market

1 opioids and Mr. Lowne -- if Mr. Lowne testified as to that,  
2 the Board was informed of what it was doing; is that right?

3 MR. KAMINETZKY: Your Honor, I do object to the  
4 reference to Mr. Lowne's testimony. I mean, I'm not sure --  
5 we have the testimony. We have the transcript. I think  
6 it's misinterpreting -- or sorry, misrepresenting the  
7 record. And I, you know, caution counsel to be very careful  
8 here. Because, you know, to represent to the witness that  
9 something happened when the exact opposite did I think is  
10 inappropriate.

11 MR. EDMUNDS: No, I'm --

12 MR. KAMINETZKY: I don't --

13 MR. EDMUNDS: -- not doing that at all.

14 THE COURT: Well, I have to say, Mr. Edmunds, I  
15 don't -- I do not recollect Mr. Lowne's testimony covering  
16 the marketing of opioids after the date of this press  
17 release. He did testify as to the sales force with regard  
18 to the constipation product. And he testified, I believe,  
19 as to some tie-in to a contractual obligation they had. But  
20 I'm not -- I think you may be mischaracterizing his  
21 testimony.

22 MR. EDMUNDS: I think we'll have to --  
23 unfortunately, I only have the Live Notes --

24 THE COURT: Well, that's fine.

25 MR. EDMUNDS: -- (indiscernible) --

1 THE COURT: Well, I don't think -- so I think in  
2 asking the question, you shouldn't -- you know, I think you  
3 need to be very careful on how you characterize his  
4 testimony.

5 MR. EDMUNDS: I think we'll have to see what it,  
6 you know, turns out to be, Your Honor, and I will --

7 THE COURT: That's fair. That's fine. That's  
8 fine.

9 MR. KAMINETZKY: Your Honor, I'm looking at --  
10 this is Ben Kaminetzky for the debtors. Page 118 of the  
11 official transcript, I refer Mr. Edmunds to that starting  
12 with the question on line 6, and then there's another  
13 question on line 16, and Mr. Lowne makes it absolutely clear  
14 that -- well, let me ask you about -- well, I'm not going to  
15 start reading testimony, but he talked about continuing to  
16 market non-opioid --

17 MR. EDMUNDS: Yeah, I'm --

18 MR. KAMINETZKY: -- products.

19 MR. EDMUNDS: I'm actually not sure -- I've  
20 withdrawn the question. I'm --

21 THE COURT: Okay.

22 MR. EDMUNDS: -- moving on.

23 THE COURT: That's fine.

24 MR. EDMUNDS: We'll let the record speak for  
25 itself.

1 THE COURT: Okay.

2 MR. EDMUNDS: Good. Great.

3 BY MR. EDMUNDS:

4 Q Mr. Sackler, you are aware, are you not, that Perdue  
5 pleaded guilty in 2007 to a criminal charge in connection  
6 with its marketing of Oxycontin?

7 A Yes.

8 Q And entered into assurances of discontinuation and  
9 consent judgments with a number of states related solely to  
10 Oxycontin; is that right?

11 A That's my understanding.

12 Q Okay. And in those judgments, the Sacklers -- your --  
13 members of your family, including you, were released for  
14 conduct that related to Oxycontin before those years; is  
15 that right?

16 A I would have to refer to my lawyers. This was quite a  
17 number of years ago.

18 Q That's fine, but the -- at any rate, there is a guilty  
19 plea to criminal conduct in the marketing and sale of  
20 opioids in that year; is that right?

21 A I believe that's accurate, yes.

22 Q And then in 2015, there is also a settlement with the  
23 State of New York; is that right?

24 A Yes, for \$75,000 if memory serves.

25 Q Well, the amount -- in any event, the settlement

1 involves allegations of misconduct in the marketing of  
2 opioids; does it not?

3 A I'm not familiar with the details of that settlement  
4 beyond the monetary compensation that New York State  
5 requested.

6 Q All right. Well, how about the guilty plea in 2020?

7 A I am familiar with it.

8 Q You are familiar with it. And that is a guilty plea by  
9 Perdue to three federal charges or there are three counts,  
10 federal charges, related to the marketing of Oxycontin and  
11 other opioids; is that right?

12 MR. JOSEPH: Objection.

13 THE COURT: What is the basis?

14 MR. JOSEPH: It mischaracterizes what the plea is  
15 for. Count 1 has nothing to do with marketing. Count 2 has  
16 to do with payments to doctors. Count 3 has to do with  
17 practice fusion. That's not three counts of marketing.

18 MR. EDMUNDS: Well, I think that we can just open  
19 it up and have the counts read for what they, in fact, are.

20 BY MR. EDMUNDS:

21 Q So, Mr. Sackler, I believe you have it. It is JX2094.  
22 And I'll ask you to pull it up, and I will also.

23 A JX2094. Let me see. Where would I find this?

24 Q I think it is in the second packet of documents,  
25 because I'm not sure what the first one is that you

1 received.

2 A I -- I --

3 MR. JOSEPH: The number, I'm not seeing it in the  
4 second packet, but I could be missing.

5 MR. EDMUNDS: Where is it -- it is titled, I guess  
6 the number is not there. The title is Purdue 2020 Plea  
7 Agreement.

8 MR. SACKLER: Sorry, it's -- I've gone through  
9 both packets. Is that something that might have been sent  
10 separately?

11 MR. EDMUNDS: No. I believe it was in packet --  
12 it's a -- you may have to back out of the folder, if you're  
13 in it, it's in the main --

14 MR. SACKLER: What's the number again?

15 MR. EDMUNDS: The title of the file it's going to  
16 be Purdue 2020 Plea Agreement.

17 MR. SACKLER: That doesn't help me. I'm sorry.  
18 What was the JX number?

19 MR. EDMUNDS: The JX number is JX209 --

20 MR. JOSEPH: The first set. This is in the first  
21 set.

22 MR. SACKLER: I'm sorry -- in fact I just missed  
23 it.

24 MR. JOSEPH: (Indiscernible).

25 MR. SACKLER: 220 what?

1 MR. EDMUNDS: 2094.

2 MR. SACKLER: I have 96 --

3 MR. EDMUNDS: I don't think that that's in the  
4 file name though. Mr. Joseph is sending you to the first  
5 set, which I guarantee to start --

6 MR. SACKLER: I see a 2000 -- there's a 2007 plea.  
7 Is that what you want?

8 MR. EDMUNDS: No, the 2020 plea.

9 MR. JOSEPH: This is 2007 (indiscernible).

10 MR. SACKLER: All I have is 2007.

11 MR. EDMUNDS: I don't know if Mr. Joseph --

12 MR. SACKLER: Oh, 2020 -- okay. You didn't label  
13 it with the JX number. Now I have it. Please go ahead.

14 BY MR. EDMUNDS:

15 Q Okay. I'm going to ask you to turn to what is Page --  
16 oh, okay. Well, Page 48 of the PDF.

17 MR. JOSEPH: Can I get the page number at the  
18 bottom? I don't know if we had a hard copy.

19 MR. EDMUNDS: It's -- it's at the top. Mr. Joseph  
20 and I think it's Page 15.

21 THE COURT: So is the heading Schedule A, is that  
22 what?

23 MR. EDMUNDS: That is right. The Schedule A is  
24 the heading.

25 MR. SACKLER: Okay. I'm there.



1 BY MR. EDMUNDS:

2 Q And Mr. Sackler, did -- do you want to -- I suppose I  
3 could refer you to Schedule A Count 1B. And Count 1B reads,  
4 and I'll read it. From at least 2007 through February 2018,  
5 Purdue employed sales representatives to establish and  
6 maintain relationships with healthcare providers, who  
7 prescribed opioids. Purdue's sales representatives called  
8 on, or detailed HCP Offices with the goal of promoting its'  
9 opioid products to those HCP's. Purdue instructed its  
10 sales representatives to prescribe -- provide HCP's with  
11 prescription savings cards to defray the cost to patients to  
12 fill prescriptions for Purdue opioid products. From as  
13 early as August 2010, Purdue implemented speaker programs,  
14 in which Purdue recruited and paid HCP's to educate other  
15 educate other HCP's about Purdue opioid products. Do you  
16 see that?

17 A I see that, yes.

18 Q And have I read that correctly?

19 A I -- I think so. I just have a question, because I  
20 haven't been able to go through the whole document. Is  
21 Schedule A the agreed Statement of Fact? Yeah, oh, I see it  
22 is. Okay.

23 Q Yeah.

24 A Go ahead.

25 Q These are the -- this includes, and it is obviously

1 more broad than the section I just read, but this includes  
2 the conduct to which Purdue pleaded guilty. Do you  
3 understand that?

4 A I see that --

5 MR. JOSEPH: Objection.

6 MR. EDMUNDS: Sorry, Your Honor.

7 THE COURT: And what's the basis for that Mr.  
8 Joseph?

9 MR. JOSEPH: It -- it's conduct which Purdue  
10 admitted but it doesn't reflect that doing those acts were  
11 as -- what it was pleading to -- the plea is later in this  
12 language.

13 THE COURT: Okay.

14 MR. EDMUNDS: I believe that forms the basis of  
15 the count, part of the basis of the count to which Purdue  
16 pleaded guilty.

17 BY MR. EDMUNDS:

18 Q Is that your understanding, Mr. Sackler?

19 A I'm sorry. I am not sure I can answer that. I'm not -  
20 - I'm not a lawyer, so I -- I just -- I don't know exactly  
21 what that means.

22 Q Do you understand Purdue to have pleaded guilty to  
23 Federal Charges?

24 A Yes.

25 Q And if this is a description of the Federal -- of the

1 conduct that underlies the guilty plea to those Federal  
2 charges, you wouldn't have any basis for disputing it, would  
3 you?

4 A Well -- I -- I just -- you know, I just don't know is  
5 the answer. I -- we've ventured into a place where you're --  
6 -- oh I feel like you're asking me for legal opinions, and I  
7 can't really give it.

8 Q No, I'm just asking you if you, reading misconduct do  
9 you have any basis for denying what it in fact occurred as  
10 was said in the plea?

11 A That paragraph? I don't have any basis for -- for  
12 disputing, no.

13 Q Okay. And that conduct occurred from -- during the  
14 time that you were a member of the Board of Directors at  
15 Purdue Pharma; is that right?

16 A That's correct.

17 Q And the rest of the conduct in count, and you can take  
18 some time to look at it, if you would like. But in Count 2  
19 and in Count 3, and in the rest of Count 1, that conduct  
20 occurred while you were a Director of Purdue Pharma, right?

21 A I think generally speaking, all the counts here fall  
22 into that category. That's correct.

23 Q So Purdue pleaded guilty to the conduct -- to this  
24 conduct -- conduct that occurred while you were a Director  
25 of Purdue Pharma; is that right?

1 A I think I just answered that and said yes.

2 Q Okay. Thank you. Let me turn you to Addendum A to  
3 this document. I will -- and I will before the Court  
4 (indiscernible) and you, Mr. Sackler, Addendum A appears on  
5 Page 79 of the PDF, and it is not, I don't think, a numbered  
6 page, but at the top it reads it has the court's docket  
7 number and says Page 47 of 97 of this paper that was  
8 submitted on the docket of the Court. Are -- are you there,  
9 Mr. Sackler?

10 A Yeah, Addendum A of the Settlement Agreement, is how it  
11 begins?

12 Q That's right.

13 A Yes, I'm there.

14 Q And so this is the addendum to Purdue's Civil  
15 Settlement Agreement; is that right?

16 A I believe so, yes.

17 Q Okay. And there is a similar Addendum A to a  
18 Settlement Agreement that you and other members of your  
19 family entered into with the U.S. Department of Justice. Is  
20 that correct?

21 A Yes.

22 Q Okay. I'm going to ask -- I'm just going to ask you to  
23 flip to the first page of Addendum -- and the first page  
24 with typing on it that starts with an introduction with the  
25 settlement agreement -- of the Addendum A to the Settlement

1 Agreement.

2 A I'm there.

3 Q Okay. And it talks about in Paragraph 4 --

4 MR. JOSEPH: Your Honor, all of the allegations in  
5 the Civil Settlement Agreement, except those that are  
6 coincident with what's on Pages 15 to 18 of the Plea  
7 Agreement, are denied. It's inadmissible under Rule 408.

8 THE COURT: Well, it depends on how this is being  
9 asked. How the question -- what the question's is. We  
10 haven't gotten to the question yet.

11 MR. JOSEPH: Good.

12 BY MR. EDMUNDS:

13 Q And if you turn to Paragraph 4, Mr. Sackler, and look  
14 at it. As it -- Paragraph 4 reads, as a result from 2010  
15 through approximately February 2018, Purdue developed and  
16 implemented several strategies to insure that the revenues  
17 generated from its opioid prescriptions, including those  
18 that Purdue knew, or should have known, were not medically  
19 necessary and would continue to flow to Purdue. Do you see  
20 that?

21 A I see that.

22 Q And do you -- do you have any reason to deny that  
23 Purdue engaged in strategies to promote its' revenues?

24 MR. JOSEPH: I -- I object, Your Honor. Rule 408  
25 says you can't use a denied Settlement Agreement to prove a

1 claim.

2 MR. EDMUNDS: I'm not -- I'm asking him about the  
3 --

4 THE COURT: I think he's just setting the context  
5 for the question. Not -- not -- let me just make it -- let  
6 me ask you, Mr. EDMUNDS. Are you asking the witness to  
7 accept the truth of that first clause that Purdue developed  
8 and implemented several strategies to insure that the  
9 revenues generated from its opioid prescriptions; are you  
10 asking to accept as true that? Or are you just asking him  
11 whether Purdue developed and implemented several strategies  
12 to insure that the revenues generated from its' opioid  
13 prescription is -- whether that's true? Whether that  
14 happened?

15 MR. EDMUNDS: I'm asking -- I am asking him if he  
16 denies the fact stated in the paragraph --

17 THE COURT: Well, that -- that you can't ask --

18 MR. EDMUNDS: -- whether it's the binding legal  
19 document.

20 THE COURT: -- because it's not -- because it's  
21 not admissible as a fact, but you could ask him the  
22 question, did Purdue develop and implement several  
23 strategies from 2010 through approximately February 2018, to  
24 insure that the revenues generated from its' opioid  
25 prescriptions would continue to flow to Purdue. You could

1 ask that question.

2 MR. EDMUNDS: Right, and I think that is -- I'm  
3 using this as a basis for questions about facts. Not for  
4 anything having to do with whether the document, in fact, is  
5 an admission to those facts. I'm asking him now.

6 THE COURT: But you -- but --

7 MR. EDMUNDS: So that is my question.

8 THE COURT: Just ask him the question. Don't --  
9 don't state it --

10 MR. EDMUNDS: Sure.

11 THE COURT: -- as a fact, and then say do you deny  
12 it. Ask him the question. And then he can answer it yes or  
13 no.

14 MR. EDMUNDS: All right.

15 BY MR. EDMUNDS:

16 Q From 2010 through approximately 2018, Mr. Sackler, did  
17 Purdue develop and implement strategies -- several  
18 strategies to insure that the revenues generated from its'  
19 opioid prescriptions, including those that Purdue knew or  
20 should have known were not medically necessary, would  
21 continue to flow to Purdue?

22 A I know that that conduct is disputed by both the debtor  
23 and the family, so --

24 Q Did Purdue develop and implement several strategies to  
25 insure that its' revenues would continue to flow?

1 A I'm not sure I follow your question. As in any  
2 business, the -- the one desires to have revenue, so I -- I  
3 don't follow the question.

4 Q Did Purdue (indiscernible) strategies to promote it's  
5 revenue, is the question.

6 A A strategies? Sure. The Board -- the Board was  
7 apprised of Management's strategies on occasion for  
8 maintaining market share and for growing market share.

9 Q Okay.

10 A I don't -- I don't agree with the paragraph, nor do I  
11 think that those were illegal or unethical. The Board was  
12 advised conduct that (indiscernible)

13 Q Well --

14 A -- the opposite would be true.

15 Q -- my -- my question was just did it do it. And I  
16 think you've answered that.

17 MR. JOSEPH: May I just ask clarifying question?  
18 Assuming for all of these, Mr. EDMUNDS, you're only asking  
19 for the time he was on the Board?

20 MR. EDMUNDS: Right. Yeah, that's correct and I -  
21 - I think -- well, we can count into each these following  
22 questions to 2012 to August 2018.

23 BY MR. EDMUNDS:

24 Q If you would turn to Page 10, it's Paragraph 50 of this  
25 Addendum A, Mr. Sackler, I'd like you to look at Paragraph



1 50 -- it's on -- it's on numbered page 10, which is 89 of  
2 the PDF.

3 A Okay. I'm at Paragraph 50.

4 Q Okay. Did -- on January 25th, 2010, did your father,  
5 Richard Sackler email members of the Purdue Board, by way of  
6 background, the most important driver of our sales growth is  
7 the decline in performance of OxiCon -- Oxycodone Extended  
8 Release forms in the market called LER. This is comprised  
9 of Oxycontin tablets, plus all of the generics in this  
10 phase. Did -- did your father send that email to members of  
11 the Board?

12 A Mr. Edmund, as I'm sure you know, I joined the Board in  
13 2012. This is 2010, so I -- I wouldn't be able to answer  
14 your question.

15 Q Do you know any -- are you familiar with any of the  
16 conduct that occurred in 2010 of -- by Purdue designed to  
17 increase sales?

18 A Am I aware -- I'm sorry, I -- I've read these  
19 complaints. I've read these allegations. I -- I don't know  
20 quite how to answer your question.

21 Q Let's go to Paragraph 62, Mr. Sackler. You see  
22 Paragraph 62?

23 A I see that.

24 Q There is a discussion of another email, April 15th,  
25 2012. Let's strike that. On Paragraph 63, do you see there

1 is a discussion of a July 17th, 2012, email from Mortimer D.

2 A. Sackler to fellow Purdue Board Members? Discussing the  
3 search for a new CEO and potential replacement of the head  
4 of sales and marketing?

5 A I see what it says here.

6 Q Was there such an email?

7 A I couldn't possibly recall.

8 Q If it's stated here, do you have any reason to believe  
9 there wasn't such an email?

10 A No.

11 Q And do you see in Paragraph 65, there is a description  
12 of Mortimer Sackler's activity, and it discusses him  
13 inquiring with executives to show the breakdown of Oxycontin  
14 market share by it's strength against competitors, because  
15 he would like to understand the more recent dynamics of the  
16 market and where patients are shifting to what we are  
17 losing. Do you agree with me that Board Members from time  
18 to time, in communications that you were copied on,  
19 consulted with Purdue's Sales and Marketing executives  
20 regarding the sale and marketing of Purdue's opioids?

21 A I'm trying to follow your question here. Can you  
22 simplify it at all?

23 Q Sure.

24 A I mean, I don't think that was on this email. I don't  
25 think that -- but I don't know.

1 Q Okay. Fair enough.

2 A I don't remember it. So I -- I -- maybe you can  
3 simplify your question, so I understand it a little better?

4 Q Well, the question is just did the Board -- did members  
5 of the Board, in communications that you were copied on,  
6 regularly consult with Sales and Marketing executives at  
7 Purdue about Purdue sales and marketing strategies?

8 A I wouldn't say it was regular, no. I would say  
9 occasionally.

10 Q Would you turn, please to Paragraph 100. I guess to  
11 Paragraph 99. There is a discussion in Paragraph 99 of the  
12 Purdue Board's discussion in August -- on August 15th, 2013,  
13 of -- it says consulting company here, but a discussion with  
14 the consulting company on evaluating growth opportunities  
15 for Oxycontin. Do you see that?

16 A I see that.

17 Q And would you have participated in an August 15th,  
18 2013, meeting of the Board and a consulting company?

19 A Well, as I was on the Board, I would have participated  
20 in that team -- you know, the Board meeting, if that's what  
21 this was. So yes, I assume so.

22 Q Okay. And do you see in Paragraph -- and -- and do you  
23 understand the marketing company in this paragraph? Do you  
24 recall Purdue's engagement of McKinsey and Company as a  
25 marketing consultant for Purdue (indiscernible)?

1 A I -- I do. Management hired McKinsey to conduct a  
2 review of the business.

3 Q Okay. And in Paragraph 101, if I could just ask you  
4 about that -- whether you recall your father, Richard  
5 Sackler, engaging a face-to-face meeting with the Board with  
6 McKinsey, outside the presence of Purdue executives?

7 A I don't recall that, not.

8 Q Had there been such a meeting, would you have attended  
9 it?

10 A Possibly.

11 Q And did you support the marketing program that McKinsey  
12 and Company ultimately recommended to the Board be  
13 implemented for Purdue Pharma?

14 A You know, I don't -- it's hard to distinguish what  
15 you're saying from Management's proposal, because what  
16 happened is, Management took -- listened to McKinsey, took a  
17 variety of their ideas, I assume -- from what I've seen,  
18 lacked a number of others that weren't discussed with the  
19 Board on sort of on the cutting room floor, and presented to  
20 the Board, this is their kind of shared vision of what they  
21 would like to do, and got Board support for that. So  
22 it's -- it's not a clean answer of yes or no. It's a  
23 little bit more of a Hodge podge than a, you know, yes or  
24 no.

25 Q The Board was informed, you would agree with me, of

1 what McKinsey was -- was doing with respect to Purdue's  
2 sales and marketing strategies? Was it not?

3 A Certainly not all of it. You know, there have been  
4 subsequent media reports about a number of things the Board  
5 was just totally unaware of that McKinsey had proposed, so,  
6 certainly not all of it, no.

7 Q In Paragraph 106, did you receive a -- a presentation  
8 on McKinsey's proposal that evolved to excellence implement  
9 strategy at a September 2013 Board meeting?

10 A Well, I don't remember --

11 MR. JOSEPH: Objection.

12 MR. SACKLER: Oh, sorry.

13 MR. JOSEPH: There's no reference to McKinsey in  
14 Paragraph 106.

15 MR. EDMUNDS: Continue the presentation on Evolve  
16 to Excellence in September -- at the September 2013 Board  
17 Meeting.

18 THE COURT: Well, I don't remember it,  
19 specifically, but you know, I go within the dispute that it  
20 happened.

21 BY MR. EDMUNDS:

22 Q It -- it was your testimony in your deposition that the  
23 Board controlled the company's sales and marketing budget,  
24 was it not?

25 A I -- I don't -- maybe you can point me to that?

1 Q Well let me just -- I'll ask it more simply. Did the  
2 Board control the sales and marketing budget of Purdue  
3 Pharma?

4 A Well, in a way, yes. So when management had to set up  
5 a budget and make the proposal, for what they thought they  
6 needed and wanted. And then the Board would vote on it at  
7 budget time, along side things like R&D and Uncle Fairs, and  
8 -- and all the way down the line items of costs.

9 Q When -- just a second (indiscernible)

10 MR. EDMUNDS: Your Honor, could I request, two,  
11 three minutes. I seem to have lost power here.

12 THE COURT: Okay. That's fine. We can see you  
13 fine. Are you on another screen too?

14 MR. EDMUNDS: I have another screen that I'm  
15 reading from and that seems to be out.

16 THE COURT: Yeah.

17 MR. EDMUNDS: So --

18 THE COURT: That's fine. Let's take --

19 MR. SACKLER: Your Honor would it --

20 THE COURT: Let's take a five-minute break and --  
21 that includes you, Mr. Sackler, but you shouldn't discuss  
22 your testimony with anyone during that break.

23 MR. SACKLER: Understood.

24 THE COURT: So we'll be back --

25 MR. EDMUNDS: Thank you, Your Honor.

1 THE COURT: We'll be back at five after 12.

2 MR. SACKLER: Okay. Thank you.

3 MR. JOSEPH: Thank you, Your Honor.

4 (Off The Record)

5 THE COURT: Okay. We're back on the record in Re:  
6 Purdue Pharma et. all. Mr. Sackler, you understand that  
7 you're still under oath, correct?

8 MR. SACKLER: Yes, sir.

9 THE COURT: Okay. So Mr. Edmunds, you can  
10 continue.

11 MR. EDMUNDS: Thank you, Your Honor.

12 BY MR. EDMUNDS:

13 Q And so, Mr. Sackler, I won't ask you to answer any more  
14 from that document, but let me -- this is the set -- to go  
15 back, this is the guilty plea, and it accompanies also a  
16 settlement by you and other members of your family, right?

17 A No. Your -- your characterization of this is  
18 incorrect. There were two separate settlements, and yes,  
19 what you've brought up is Purdue's guilty plea. So  
20 you're --

21 Q I'm not -- I'm not talking about the document, Mr.  
22 Sackler, but your family also, in connection with this,  
23 though it is a separate settlement, your family entered a  
24 civil settlement agreement with the Department of Justice,  
25 right?

1 A That's correct, yes.

2 Q And the Department of Justice alleged, substantially,  
3 in another Addendum A, to that civil settlement agreement  
4 with you and members of your family, the same allegations  
5 that are in the Addendum we just reviewed; is that right?

6 MR. JOSEPH: Objection, referring to matters not  
7 in evidence. Very general. It's not even correct.

8 MR. EDMUNDS: Well, let's just put it in.

9 BY MR. EDMUNDS:

10 Q I'm going to ask you to open, I believe that this is  
11 the separate document that you were sent later, it's JX2096.  
12 That was emailed to you this morning. It was a separate  
13 document. It didn't come with the set less.

14 A Got it.

15 Q Can you see that the title of the document is  
16 Settlement Agreement?

17 A Correct.

18 Q And this document is, in fact, the settlement agreement  
19 you and other members of your family, including your father,  
20 Richard Sackler, your cousins, Mortimer Sackler, Cathy  
21 Sackler, and your late uncle, I think, Jonathan Sackler,  
22 entered with the United States Department of Justice. Is  
23 that correct?

24 A That's correct.

25 Q Okay. And this settlement also contains an Addendum A;



1 does it not?

2 A It does, yes.

3 Q Okay. And I'm not going to ask you to go through the  
4 Addendum A because I know, in fact, you did not agree with  
5 Addendum A. But wait, I'm right in that you denied it as  
6 part of the earlier language of the agreement, right?

7 A We strenuously, yes, we deny it.

8 Q But what I will ask you is, rather than litigate with  
9 the Department of Justice, you entered a pedelment  
10 agreement; is that right?

11 MR. JOSEPH: Objection, Your Honor. That clearly  
12 is to suggest liability based on a settlement agreement,  
13 which is completely precluded by Rule 408.

14 MR. EDMUNDS: I -- I am not trying to establish  
15 liability. I am trying test what he indicated in his prior  
16 testimony with, I believe, Mr. Higgins, that he would  
17 continue to litigate these issues against other parties.  
18 And I am just pointing out the fact that they did not  
19 continue to litigate these issues when these issues were  
20 raised by the United States Department of Justice. And  
21 that's the basis for the question.

22 MR. JOSEPH: Objection. That is totally  
23 irrelevant. The document speaks for itself.

24 MR. EDMUNDS: I don't think that's -- that's not a  
25 relevance objection.

1 THE COURT: Well, I -- I think it's a tautology  
2 though, Mr. Edmunds. The -- the Sackler parties to this DOJ  
3 settlement agreement, settled the claims that are settled in  
4 the settlement agreement. Right? Is that what you're  
5 asking?

6 MR. EDMUNDS: Well, that's sure, as to the claims.  
7 The question is whether the family defended itself against  
8 the Department of Justice on -- on these allegations?

9 THE COURT: Well, there's a settlement agreement  
10 that speaks for itself on that point.

11 MR. EDMUNDS: All right. Fair enough.

12 BY MR. EDMUNDS:

13 Q Mr. Sackler, are you aware of allegations that --  
14 strike that. Mr. Sackler, you sit on -- you already  
15 testified that you sit on the Board of MMP, that makes  
16 recommendations to International Affiliated Companies,  
17 right?

18 A (Indiscernible).

19 Q I think, Mr. Sackler, I didn't hear your --

20 A Oh, my, my voice is fading a bit. Correct.

21 Q Okay. And in fact, are you aware that allegations have  
22 been made against Mundipharma International entities when  
23 countries such as Europe, or it's countries such as Italy?

24 A You know, everything I would know about that would come  
25 from Counsel.

1 Q Does that come from Counsel?

2 A Correct. I would have learned of it through Counsel  
3 and I -- I, so I don't know what I can answer here or not.  
4 Because there'd be privilege issues associated with it.

5 THE COURT: Well, but this question just want are  
6 you aware of allegations (indiscernible) Mundipharma from --

7 MR. SACKLER: I --

8 THE COURT: -- Italy.

9 MR. SACKLER: I apologize, Your Honor.

10 BY MR. EDMUNDS:

11 A Yes, I am aware that those were -- that that was  
12 resolved.

13 Q That was my next question, Mr. Sackler. There was a  
14 resolution also of those allegations against Mundipharma  
15 Italy, right?

16 A Yeah, I do not recall --

17 MR. JOSEPH: Objection, irrelevant. Mundipharma  
18 has nothing to do with the debtors. It has nothing to do  
19 with the reason we're here today.

20 THE COURT: Well, I -- I don't know that. Why  
21 don't we just move on?

22 MR. EDMUNDS: Yes, Your Honor. Okay. Well, I  
23 would just ask, I mean, the -- do you want me to move on,  
24 Your Honor? I -- I will move on to --

25 THE COURT: I -- I that question was answered, I

1 believe.

2 MR. EDMUNDS: Okay.

3 THE COURT: There was objection to it, but I'm  
4 overruling the objection.

5 MR. EDMUNDS: All right. Thank you, Your Honor.

6 THE COURT: I'll let you answer some more  
7 questions to see whether in fact you are going down a  
8 relevant path or not. So far, you are.

9 BY MR. EDMUNDS:

10 Q And do you -- do you -- are you aware that those  
11 allegations that were settled were related to kickbacks in  
12 the marketing of Oxycontin, it may be called something else,  
13 but Oxycodone Extended Release, in Italy?..

14 O

15 A I don't know that and all the details that this would  
16 be privileged. Of my knowledge would be privileged.

17 Q No, I don't think your knowledge is  
18 privileged, Mr. Sackler, but are you aware that the Italian  
19 Mundipharma entity settled allegations of kickbacks related  
20 to opioids?

21 A I don't recall the details of the settlement, no.

22 Q Okay.

23 A It was a number of years ago.

24 Q You have no reason to -- do you have any reason to  
25 believe -- do you have any reason to deny that the

1 Mundipharma Italian entity did not enter a resolution of its  
2 payment of kickbacks to the Italian doctors in Italy?

3 A I just don't know the situation well enough anymore to  
4 give you crisp answers. I believe that's correct.

5 Q Okay. And are you aware of any other allegations  
6 against any other Sackler owned entities operating  
7 throughout the world?

8 A Yes.

9 Q In which ones?

10 A Canada, which has been pretty extensively discussed  
11 during this hearing.

12 Q I understand Canada. Any others besides Canada.

13 A No, I'm not aware of any others. I mean, like all  
14 businesses, there are regulatory actions that -- oh, I  
15 should also mention the -- well, there are regulatory  
16 actions in the businesses that pop off and are settled or  
17 resolved. And I'm not aware of any that are ongoing now,  
18 but that's part of -- part of the business over time.

19 Q But -- so, are you aware of any regulatory actions that  
20 have popped up that are now resolved involving any of the  
21 Sackler owned entities and their promotion or marketing or  
22 sale of opioids?

23 A No.

24 MR. ALBERT: Objection. We're talking about non-  
25 U.S., non-Debtor entities. It is not relevant.

1 THE COURT: But what -- Mr. Edmunds, what is the -  
2 - I'm not quite sure, I thought I understood the basis for  
3 this questioning, but I'm not at this point, I'm not sure I  
4 do. So, what is --

5 MR. EDMUNDS: I think --

6 THE COURT: -- the purpose for -- of these  
7 questions?

8 MR. EDMUNDS: There are a couple, Your Honor. One  
9 purpose, obviously, is that they are seeking releases for  
10 these entities and, you know, related to their own conduct  
11 involving in any way opioids, and both --

12 THE COURT: Actually, I don't --

13 MR. EDMUNDS: -- some non-opioids.

14 THE COURT: Can we -- can we stop on that point.

15 MR. EDMUNDS: Sure.

16 THE COURT: As I understood it from the statements  
17 earlier in the trial, the releases they're seeking are in  
18 respect of claims based on the U.S. companies' activities  
19 that may be asserted by foreign people, but U.S. based. So,  
20 I think if you're asking about claims that are being made  
21 based on the activities of the foreign entities, that isn't  
22 correct. The Plan doesn't seek that type of release.

23 MR. EDMUNDS: Your Honor, it was my understanding  
24 that the Plan releases the foreign entities for any  
25 involvement in Purdue's conduct, which --

1 THE COURT: Right, Purdue's conduct. And if  
2 you're asking questions about Purdue's conduct, vis-à-vis  
3 these foreign entities, I understand; that's relevant. It's  
4 not relevant if you're asking questions about these  
5 entities' own conduct because that's not covered by the  
6 release?

7 MR. EDMUNDS: My -- my second -- the second reason  
8 in which I think it is relevant is that they're asking for  
9 releases of themselves, you know, related to the marketing  
10 of opioids or non-opioids, and I think that those release,  
11 as Mr. Higgins pointed out, involve conduct even in the  
12 future. And so, I think --

13 THE COURT: No, but again, as I understood it,  
14 that is for U.S. based conduct.

15 MR. EDMUNDS: And I think, Your Honor, that what  
16 occurs in the entities that Mr. Sackler and other members of  
17 the family run is relevant to the appropriateness of such a  
18 release of future behavior.

19 If the Court is going to consider releasing them  
20 from conduct in the future, it ought to know that even, you  
21 know, as recently as the settlement in Italy, a few years  
22 ago, and in the other regulatory activities I was about to  
23 ask Mr. Sackler of now, I think that is relevant to whatever  
24 releases of future conduct or releases are appropriate. And  
25 so, it would relate to issues that the objecting states have

1 raised in their three objections in which, you know, there  
2 is a sovereign decision to be made about whether a release -  
3 -

4 THE COURT: The states don't have any sovereignty  
5 over what happens in Italy by an Italian company.

6 MR. EDMUNDS: Absolutely not, Your Honor. And we  
7 do not --

8 THE COURT: So, I think we're going over old  
9 ground here. If you're talking about future claims based on  
10 U.S. activity, I think you're getting --

11 MR. EDMUNDS: I think --

12 THE COURT: -- pretty far away from the fact given  
13 the condition in the settlement that the Sacklers don't  
14 engage in any U.S. opioid related activity.

15 So, I think given the time constraints here, this  
16 really is getting to be irrelevant at this point. '

17 MR. EDMUNDS: All right. Your Honor, I will -- I  
18 will move on.

19 MR. ROBINSON O'NEILL: Your Honor, this is Tad  
20 Washing -- or Tad Robinson O'Neill from Washington state.  
21 May I be heard on this particular issue?

22 THE COURT: Okay.

23 MR. ROBINSON O'NEILL: As I understand it, Your  
24 Honor, the funding for the Sackler payments will be paid in  
25 large part based on the sale of the independent affiliated



1 companies, including companies abroad. Regulatory actions  
2 and potential regulatory actions against those companies may  
3 very well adversely impact the value of those -- that sale  
4 and the Sackler ability to pay the obligations under this  
5 contract.

6 I would request that it is relevant, Your Honor,  
7 or some inquiry into the IACs.

8 MR. ALBERT: The IA -- the sale of the IACs is not  
9 a condition of the payment. It's just some security. The  
10 family is obliged to make the payments --

11 THE COURT: No, I -- that, there is some relevance  
12 to that line of inquiry. It wasn't the relevance that Mr.  
13 Edmunds was getting at.

14 So, I guess a question can be asked as to the  
15 magnitude of such allegations and, you know, whether the  
16 witness has any concerns as to the ability to pay the  
17 settlement. That's a fair question to ask.

18 MR. EDMUNDS: Your Honor, I could asked (sic) -- I  
19 would just ask to be able to ask what the -- he mentioned  
20 regulatory activities of which he is aware, and I think that  
21 the underlying nature of those activities will -- you know,  
22 determining what he means by that may impact whether there  
23 is cause to be concerned about the future value with the  
24 IACs.

25 THE COURT: I --

1 MR. EDMUNDS: So, that's what I would ask.

2 THE COURT: Well, that's not where you were --

3 MR. EDMUNDS: It's --

4 THE COURT: -- going, but you can ask questions  
5 about the future viability of the IACs and the ability to  
6 pay the settlement. That's fair.

7 BY MR. EDMUNDS:

8 Q Well, so -- Mr. Sackler, you had mentioned regulatory  
9 activities, regulatory, I guess, actions that have been  
10 brought -- commenced against Sackler companies worldwide and  
11 my question was at the beginning of all of this, whether  
12 those regulatory activities involve allegations about the  
13 marketing or sale of Mundipharma opioids?

14 A Well, there's only one that I can think of, and I don't  
15 believe that I know of any others that are ongoing. The one  
16 I was thinking of has closed out now. We can discuss that,  
17 but I don't know of any other ongoing regulatory activities,  
18 maybe a tax regulatory activity to -- for a nominal sum in  
19 Europe, but I'm not 100 percent certain on that.

20 So, if you'd like to discuss the Australia action, which is  
21 public now, I can do that. But that was settled for a  
22 nominal -- I think about \$400,000 Australian, with the  
23 government.

24 Q And what were Australia's allegations?

25 A That one line in a -- I think an off-branded marketing

1 material that referred to opioids as being part of a multi-  
2 modal treatment -- potential treatment option for pain after  
3 other alternatives have been considered was, under the  
4 Australian guidelines, not appropriate. So, that line was  
5 removed and the settlement was enacted, and that was -- that  
6 was it.

7 Q Okay. And I believe your testimony was something to  
8 the effect of that these things -- you know, that regulatory  
9 actions such as that have occurred and happened in the  
10 business; is that right?

11 A No, I was thinking more along the lines of tax. You  
12 know, the tax audits pop up and we deal with those on a --  
13 you know, not regular basis, but they do occur.

14 Q Okay. But you've got United States, Canada, Italy, and  
15 Australia, at least, taking action for entities that the  
16 Sackler family owns and controls, activities in the sale and  
17 marketing of opioids into its countries; is that right?

18 A No.

19 Q What is not right about that.

20 A Your verb, taking, is wrong. They're -- Australia and  
21 -- Australia and Italy are closed out. So, they are no  
22 longer taking any, actions are completed.

23 Q So, if I said, have taken, you would be in agreement --

24 A Have taken and Italy and Australia have been closed out  
25 for very small amounts of money (indiscernible) to the value

1 of the IACs, yes.

2 Q Let me turn -- the shares of Purdue and the other  
3 Sackler family companies are owned by family trusts; is that  
4 right?

5 A Yes, I believe so.

6 Q And --

7 A But I want to be -- I want to be clear though, I can't  
8 speak for the A Side. I don't know their structures. So,  
9 I'm only talking about the B Side when you --

10 Q The B Side of the family holds shares in trust, or the  
11 shares are held by trusts for the benefit of you and other  
12 members of the B family; is that right?

13 A That's correct, yes.

14 Q And those trusts -- as the Director of Purdue, you have  
15 cause over time, distributions to be made ultimately that go  
16 to those family trusts; is that right?

17 A Yes, distributions remanded in part ended up in those  
18 trusts, yes.

19 Q And since the time that you became a Director of Purdue  
20 Pharma, the distributions to family trusts were upward of  
21 \$10 billion; is that correct?

22 A No. Well, it depends on how you characterize the tax  
23 payments. So, that -- so, half of that, roughly speaking,  
24 went to taxes, and another portion was reinvested in the  
25 IACs and never really went to family trusts. So --

1 MR. ALBERT: Your Honor, I believe it's undisputed  
2 that, for at least four years of those preceded his time on  
3 the Board.

4 MR. EDMUNDS: Okay --

5 THE COURT: I don't know what -- I mean, I don't  
6 think -- you can go ahead, Mr. Edmunds, but I don't want --

7 MR. EDMUNDS: It's okay.

8 THE COURT: -- to repeat the Debtor's own  
9 testimony as to the --

10 MR. EDMUNDS: All right. But we --

11 THE COURT: -- distributions that have been made.

12 MR. EDMUNDS: We won't -- we won't do that.

13 MR. HUEBNER: Hey, Edmunds, with apologies, if  
14 you're headphones are charged, you may want to try them  
15 again because you're sound --

16 MR. EDMUNDS: (Indiscernible) --

17 MR. HUEBNER: -- has actually degraded again a lot  
18 in the last few minutes. I just want to make sure that  
19 everybody, including you, frankly, has the transcript that  
20 they need for whatever purposes they would like to use them.

21 MR. EDMUNDS: Well, I understand. I will lean in  
22 and I don't think that the headphones have charged.

23 MR. HUEBNER: Okay. All good.

24 MR. EDMUNDS: So -- but thank you, Mr. Huebner.

25 BY MR. EDMUNDS:

1 Q And you run an entity called Summer Road, right, that,  
2 in fact invests money that is held in the family trust; is  
3 that right?

4 A I'm the President of Summer Road, yes.

5 Q And Summer Road directly invests the money that is held  
6 in those trusts; is that correct?

7 A What do you mean by directly?

8 Q You have authority to invest the money that's in the  
9 family trust that is granted to you by the trustee?

10 A Yes.

11 Q All right. And you also receive an income from the  
12 trusts, right?

13 A No. I receive an income through Summer Road.

14 Q Through Summer Road, but ultimately is paid for by the  
15 trusts; is that right?

16 A Summer Road is billed to the -- the expenses of Summer  
17 Road, including my compensation, is billed to the various  
18 trusts. That is accurate.

19 Q Okay. You're also seeking releases -- just turning to  
20 releases. You were seeking releases for your non-opioid  
21 U.S. liability; is that right?

22 A Yes.

23 Q And that would involve drugs like Adhansia, right?

24 A I believe so, yes.

25 Q And Adhansia is a -- is a central nervous system

1 stimulant; is it not?

2 A I believe so, yeah.

3 Q And under Rhodes Pharmaceuticals, another one of the  
4 Debtors, you also manufactured central nervous system  
5 stimulants; did you not? Or, the company did?

6 A Yes, Rhodes did. Yes.

7 Q And Rhodes also manufactured generic benzodiazepines;  
8 did it not?

9 A I don't know.

10 Q How about cannabinoids; did it -- did it manufacture  
11 cannabinoids?

12 A I don't recall.

13 Q All right. But if it did, you're -- you -- at any  
14 rate, a release for all conducts that Rhodes may have  
15 engaged in related to non-opioid controlled substances; is  
16 that right?

17 A That's correct.

18 Q And you -- Purdue has -- Purdue is the owner of the  
19 intellectual property rights that international Sackler  
20 companies use in marketing prescription drugs abroad; is  
21 that right?

22 A I believe that they -- there are cross-licenses between  
23 -- you know, I think it goes both ways. So, I think that is  
24 correct and I believe that other entities own IP that Purdue  
25 uses as well, as far as I recall. But I -- I'm not entirely

1 certain of all the IP crossovers.

2 Q All right. Do you know whether the opioids licenses  
3 received from Purdue from the U.S. ultimately to the  
4 international IACs.

5 A I'm sorry, I just don't know. I'd have to refer to  
6 counsel.

7 Q Mr. Sackler, does your family through its international  
8 entities intend to continue marketing opioids?

9 A Well, I think the agreement is quite clear, that we  
10 intend to accent the IACs and then within the opioid  
11 business, over the course of the next seven years, once the  
12 Plan is confirmed.

13 Q And through that time, you will continue to market  
14 opioids?

15 A Yes, we will continue to market opioids in the markets  
16 where that occurs. Yes.

17 Q And that is despite the fact that people are dying from  
18 opioids; is that right?

19 A Sir, these are approved products around the world. The  
20 W.H.O. considers access to them a human right, basic human  
21 right, and the balance between risk and societal benefit I  
22 think is unquestioned. So, I wrestle with the notion that  
23 people are dying as the only barometer of these medications'  
24 worth.

25 Q But --



1 A That's not true.

2 Q -- thousands, tens of thousands of people are dying  
3 from these drugs; is that right? You don't deny that --

4 A Actually --

5 MR. ALBERT: Objection. Foundation.

6 THE COURT: What -- which -- Mr. Edmunds are you -  
7 - are you now focusing on the foreign entities in the  
8 foreign countries?

9 MR. EDMUNDS: I think I'm just focusing on opioids  
10 generally.

11 THE COURT: Well --

12 MR. EDMUNDS: But yes, the foreign entities that -  
13 - where he continue -- you know, where I think marketing  
14 continues, right, where the -- so.

15 THE COURT: Right. So, I think that's his -- I  
16 guess that's a sufficient foundation.

17 Are you aware of deaths --

18 MR. EDMUNDS: Sir --

19 THE COURT: -- from opioids in the countries where  
20 the IACs will be operating over the next several years  
21 before they're sold?

22 THE WITNESS: Yes, there are deaths from opioids  
23 in many jurisdictions around the world, but illicit --  
24 primarily driven by illicit opioids. But, you know, that is  
25 one of the risks associated with opioid therapy, yes.

1 MR. EDMUNDS: All right. No further questions,  
2 Your Honor.

3 THE COURT: Okay.

4 MR. EDMUNDS: Thank you, Mr. Sackler.

5 THE COURT: Okay. All right. Does anyone else  
6 want to cross-examine the witness?

7 MR. RUSSELL: Yes, Your Honor.

8 THE COURT: Okay.

9 CROSS-EXAMINATION OF MR. SACKLER

10 BY MR. RUSSELL:

11 Q Mr. Sackler, my name is William Russell and I represent  
12 the Gulf Underwriters Insurance Company, and I'd like to ask  
13 you this afternoon just a handful of questions about three  
14 entities that were listed as Side B shareholder lease  
15 parties on page 498 of the Debtors' Disclosure Statement.

16 A Will you allow me to pull it up?

17 Q Oh, of course.

18 A Oh, okay. You said 498?

19 Q Yeah. I believe it's the second-to-last page of the  
20 disclosure statement.

21 A Okay. I'm there. Go ahead.

22 Q And this list, these are entities that are owned  
23 directly or indirectly by members of what you call Side B of  
24 the Sackler family; is that right?

25 A I can't characterize all of them like this. I'd have

1 to defer to my counsel as there are quite a many.

2 Q Okay. But they are listed on as Side B shareholder  
3 release parties; do you see that?

4 A I see that.

5 Q The first one I want to ask you about is the Purdue  
6 Frederick Company, Incorporated; are you familiar with that  
7 company?

8 A No. I mean, I don't know exactly what it is or what it  
9 holds, so no.

10 Q Can you tell me who owns it?

11 A I don't know.

12 Q Can you tell me what its business is?

13 A No, I don't know.

14 Q Okay. The next company I want to ask you about is the  
15 PF Laboratories Inc.; are you familiar with that company?

16 A No. I mean, these are all entities related to Purdue.  
17 Though I don't know off hand and I'd have to refer to  
18 counsel to under -- to better refresh my recollection of the  
19 structure to know what everything holds. I just don't know  
20 it off the top of my head.

21 Q Sure. And so, you're unable to tell us what the  
22 business of the PF Laboratories Inc. is; is that correct?

23 A Not off the top of my head, no.

24 Q And the third company I want to ask you about is PRA  
25 Holdings Inc. Are you familiar with PRA Holdings Inc.?

1 A Not in the questions I believe you're going to ask, not  
2 in that level of detail. I do know the name.

3 Q So, you can't tell us who owns PRA Holdings Inc. or  
4 what its business is?

5 A Again, I believe in the context of all three of things  
6 that you've asked about that has been disclosed through our  
7 attorneys, and I just don't have the structure memorized.  
8 So, I can't answer it for you.

9 Q When you say it's been disclosed by your attorneys, do  
10 you know where your attorneys have disclosed who owns and  
11 what's the business of the Purdue Frederick Company, Inc.,  
12 the PF Laboratories, Inc. and PRA Holdings, Inc.?

13 A It may not have been disclosed. I don't know. I would  
14 assume in the ownership chain of Purdue that the Debtor  
15 would have made those disclosures, but I don't know that to  
16 a certainty.

17 Q And these three entities are not what are being  
18 referred to as IACs or independent affiliate companies, are  
19 they?

20 A I don't know what their characterization is here.

21 Q As you sit here today, do you have any basis to  
22 disagree with the fact that these three entities were not  
23 identified on Exhibit E to the Shareholder's Settlement  
24 Agreement as IACs?

25 A I don't have any reason to dispute that, no.

1 Q And if they're not IACs, they're not among the  
2 companies that are being sold and then having their proceeds  
3 distributed to the Debtor's estate. Is that right?

4 A Well, I don't know exactly what they are, so I just, I  
5 can't answer your question. They maybe pass-through  
6 entities. They, you know, I just, I don't know. They may  
7 have no assets. They may have no business. So  
8 unfortunately, I can't answer those questions.

9 Q Sure, but it's the IACs that are the companies that are  
10 being sold and having the proceeds distributed to the  
11 estate; is that right? Is that your understanding?

12 A That is my understanding.

13 Q And if these are not IACs, they're not among the  
14 companies who are going to be sold and have the proceeds of  
15 the sale distributed to the estate, correct?

16 A I don't think you can make that assumption as clearly  
17 as you are. They may have -- as pass-through entities, they  
18 may be in the value chain of the IACs and maybe either  
19 collapse or may have to go along with the IACs and sale. So  
20 I just -- unfortunately, I just don't know the answer to  
21 this, but I don't think one can just assume the way you are  
22 that these things -- simply because they're not operating  
23 IACs are not part and parcel to those transactions.

24 Q But Exhibit E to the Shareholder Settlement Agreement,  
25 identifies all the IACs, not just operating IACs. Is that

1 right?

2 A I don't know.

3 Q You don't know one way or another?

4 A No, I don't.

5 Q And can you tell me any assets or value that any of  
6 these three companies: the Purdue Frederick Company, Inc.,  
7 the PF Laboratories, Inc., and PRA Holdings, Inc. is  
8 contributing to the Debtor's estate or to the  
9 reorganization?

10 A I don't know the answer to that.

11 Q As you sit here today, you can't identify any assets or  
12 value that they are contributing?

13 A As I don't know what these entities are, I can't  
14 possibly answer.

15 Q Mr. Sackler, that's all I have for you. Thank you very  
16 much.

17 A Thank you.

18 THE COURT: Okay. Does anyone else want to cross-  
19 examine Mr. Sackler?

20 MR. ROBINSON O'NEILL: Your Honor, Tad Robinson  
21 O'Neill on behalf of the State of Washington.

22 THE COURT: Okay. You can go ahead, Mr. O'Neill.

23 CROSS-EXAMINATION OF DAVID SACKLER

24 BY MR. ROBINSON O'NEILL:

25 Q Good afternoon, Mr. Sackler. Can you hear me okay?

1 A I can.

2 Q Do you recall that you testified -- probably the last  
3 question Mr. Higgins asked you, you answered that you felt  
4 your family had a moral responsibility to help those harmed  
5 by the opioid crisis. Do you recall that testimony?

6 A Yes.

7 Q Are you admitting here today that you have a legal  
8 responsibility to pay for those people who have been harmed  
9 by the opioid crisis in the United States?

10 A No and I don't believe so and I don't believe the  
11 allegations against our family are legally meritus. That's  
12 my belief and my position. That said, our family cares  
13 deeply that OxyContin was a part of the opioid crisis  
14 although it was unintentional. And though we don't believe  
15 our conduct was illegal in any way, we want to help.

16 Q And I believe it's the position that both yourself and  
17 your family that you complied with all legal requirements  
18 during your time as a Director of Purdue Pharma, LLP. Is  
19 that right?

20 A Yes.

21 Q Are you paying for any of the proposed Sackler payments  
22 under this confirmation plan and proposed settlement out of  
23 your own funds or personal assets?

24 A Trusts of which I'm a beneficiary are paying the  
25 settlement amounts.

1 Q Right. And I guess that's the question I had. Do you  
2 intend to pay for the Sackler payments out of the trusts of  
3 which you are a beneficiary but not directly out of your own  
4 personal assets?

5 A My, yeah, I believe that is the current plan but I'd  
6 have to refer to my counsel to be absolutely certain.

7 Q Well, for now we'll just take your understanding. Now  
8 those future payments, would you agree with me that the  
9 money for that is planned to be funded out of the sale of  
10 what are called IACs?

11 A No. I think the Debtor has done an extensive and the  
12 UCC as well, some extensive exercise to underwrite the  
13 families' ability to pay here. And while it's planned that  
14 the IAC sales will contribute to the settlement, and that is  
15 the hope, I think that, you know, we've underwritten --  
16 there's a variety of scenarios here basically where that is  
17 probably the case but it may not be the case. I want to  
18 just be clear. I think some portion of the settlement will  
19 be paid from the IAC sales. I think that's highly likely.

20 Q Fair enough. We should perhaps incorporate your  
21 attorney, Mr. Joseph's observation that they are security  
22 for the payments. The IACs are security for the payments,  
23 but not necessarily the payment themselves.

24 A Correct.

25 Q Do you feel better with that characterization, Mr.



1 Sackler?

2 A Yes. As I said, the Debtor and the UCC and their  
3 advisors have done an extensive amount of work on our  
4 creditworthiness to make these payments.

5 Q During the questioning by Mr. Edmunds, you testified  
6 that Purdue Pharma, as with any business, sought to increase  
7 its market share and revenue. Do you recall that testimony?  
8 I'm not asking -- do you remember that testimony?

9 A Yes.

10 Q And I think the phrase you used was "as with any  
11 business." Do you recall using that phrase?

12 A I do, yes.

13 Q But Purdue Pharma is not just any business, is it, Mr.  
14 Sackler? Doesn't it sell a highly-addictive substance?

15 A I'm sorry. I don't follow. OxyContin -- well, Purdue  
16 swells a wide variety of products.

17 Q One of those products is OxyContin?

18 A One of those products is OxyContin.

19 Q One of those products is Butrans?

20 A One of those products is Butrans, yes.

21 Q One of those products is Hysingla?

22 A One is Hysingla.

23 Q One of those products is MS Contin?

24 A I believe Rhodes sells MS Contin. I'm not entirely  
25 sure Purdue sells MS Contin.

1 Q But that qualification that it might be one of Rhodes,  
2 I'm not sure if it's an IAC or subsidiary, but in any case,  
3 the Purdue Pharma umbrella company sells MS Contin?

4 A Yes. Well, a generic form. I think the proper way to  
5 characterize it at this point is probably control-released  
6 morphine.

7 Q These are all what are called opioids, sometimes also  
8 called narcotics. Is that right?

9 A Yes.

10 Q And those drugs all carry the possibility of addiction?

11 A Yes, they do.

12 Q And they all carry the possibility of death?

13 A That is a possibility, yes. It's listed on the label.

14 Q Fair point. Those are all listed on the label. And,  
15 in fact, your label -- the label for those drugs indicates  
16 that even when taken as prescribed, those drugs can cause  
17 addiction and death. Is that right?

18 A Yes. You're referring to an iatrogenic addiction,  
19 which I believe the FDA states is rare.

20 Q And in the United States, it is true that Purdue Drugs  
21 have caused deaths in the United States. Is that right?

22 A I believe that that is true, yes.

23 Q And opioid drugs have caused -- the Purdue drugs have  
24 caused addiction in the United States. Is that correct?

25 A I believe -- so I'm saying I believe that's true

1 because I think statistically, it must be. Though, you  
2 know, so, yes, I believe that is true. I'm sorry. Your  
3 screen's gone blank, sir. I don't know if --

4 THE COURT: Is he off? You froze for a moment,  
5 Mr. O'Neill. I don't know if you were asking a question.

6 MR. ROBINSON O'NEILL: I apologize, Your Honor.  
7 Am I back?

8 THE COURT: Yes.

9 BY MR. ROBINSON O'NEILL:

10 Q Mr. Sackler, can you hear me? I apologize.

11 THE COURT: He can hear you.

12 BY MR. ROBINSON O'NEILL:

13 Q All right. And to be fair to your position and the  
14 position of your family, it's also true that you maintain  
15 that those drugs also provide value in the form of pain  
16 relief for people who suffer from chronic pain. Is that  
17 right?

18 A I think that's undeniable, yes.

19 Q And for that value, the pain relief value, your family,  
20 the Sackler Trusts, have received 10.4 billion dollars in  
21 disbursements since 2007. Is that right?

22 A I think all those disbursements have been listed. As  
23 we said before, half went to taxes, some was reinvested in  
24 other businesses, but yes, that is the gross number.

25 Q And you've also received 1.4 billion dollars in

1 nonmonetary transfers from the business that sells OxyContin  
2 and these other opioids?

3 A I believe that was the number of the AlixPartners  
4 report, but I don't know it off the top of my head.  
5 Whatever has been disclosed, I do not dispute.

6 Q And that massive amount of compensation was  
7 compensation for the value you provided in pain relief, is  
8 it?

9 A I believe so, yes.

10 Q Would you agree that in the case of opioids, the real  
11 question or the heart of the matter is that you have to  
12 value the benefits of opioid use against the possible  
13 adverse outcomes?

14 A I don't have to do that. That's the job of the U.S.  
15 Food and Drug Administration.

16 Q But your company makes this drug and sells it?

17 A Under a marketing authorization from the U.S. Food and  
18 Drug Administration, an incredibly, highly-regulated  
19 industry. So, yes, while we manufacture and make it, there  
20 is a tremendous amount of government oversight over the use  
21 of these medications.

22 Q There's also physicians that would be responsible for  
23 each individual prescribing decision and we would all hope  
24 that they make that balance themselves.

25 A That's correct, yes.

1 Q You received reports at the Board that Purdue's  
2 marketing altered that balance and ordered more opioid  
3 prescribing, did you not?

4 MR. JOSEPH: Objection. Referring to undisclosed,  
5 unidentified matters. It's not fair to ask him. He  
6 received reports over six years. If he wants to identify a  
7 report, that would be fine.

8 MR. ROBINSON O'NEILL: Your Honor, I'm just asking  
9 for his memory. Maybe he doesn't remember and we can rely  
10 on all the --

11 THE COURT: Can you ask the question again? I'm  
12 not sure I --

13 MR. ROBINSON O'NEILL: Sure. You received reports  
14 at the Board that Purdue's marketing caused physicians to  
15 write more opioid prescriptions.

16 THE COURT: Is the question do you recall  
17 receiving such reports?

18 MR. ROBINSON O'NEILL: Yes.

19 BY MR. ROBINSON O'NEILL:

20 A No.

21 Q All right.

22 A If one looks back at my time on the Board, OxyContin  
23 prescriptions were falling. Purdue was losing market share.  
24 So marketing was not causing, you know, net more opioid  
25 prescribing at Purdue. I don't know how on my time on the

1 Board anybody could argue that marketing was leading to more  
2 opioid prescribing.

3 Q I suspect, Mr. Sackler, the documents will speak for  
4 themselves, but since you volunteered that information that  
5 Purdue's -- the overall numbers of Purdue's were dropping,  
6 isn't it true that your received reports from McKensey that  
7 your E2E Program -- not yours, but Purdue's E2E Program and  
8 aggressive marketing slowed that and caused certain  
9 prescribers to write more opioids?

10 MR. JOSEPH: Objection. Characterization as  
11 aggressive marketing. It's not a factual question.

12 THE COURT: I think that's a fair question. You  
13 can answer that question.

14 BY MR. ROBINSON O'NEILL:

15 A No. Everything that we did on the Board, sales were  
16 always couched as a part of market share. So E2E or  
17 anything else you want to talk about with marketing is  
18 always geared towards market share, which means you're  
19 taking an opioid prescription from your competitor, not  
20 creating a brand new opioid prescription. So, no, I think  
21 that's been badly mischaracterized. Market share is not the  
22 same thing as market expansion.

23 Q All right. Thank you, Mr. Sackler. We'll let the  
24 documents speak for themselves. Let's turn now to -- it's  
25 true that in February of 2018, you were on the Board and

1 approved a plan by Purdue management to cease all opioid  
2 marketing in the United States. Is that correct?

3 A Yes. As Mr. Edmunds asked in great detail. Yes, that  
4 is correct.

5 Q He did ask quite a lot of questions about that. Were  
6 you in support of that decision to cease marketing in the  
7 United States?

8 A As I recall, management made a very good presentation  
9 about this being the right direction for the business to go  
10 in and I was in favor on that one, yes.

11 Q Was your decision to cease marketing based on a legal  
12 responsibility to cease marketing?

13 A No.

14 Q Do you believe you could have continued to legally  
15 market opioids in the United States consistent with the FDA  
16 guidance?

17 A I believe so. I never heard otherwise.

18 Q Was your decision to cease marketing opioids then based  
19 on your moral responsibility to make sure that you didn't do  
20 any more harm?

21 A I don't believe that the marketing in 2018, as you are  
22 trying to say, was doing harm. The reps, as it was  
23 described to the Board, were spending a huge amount of time  
24 with doctors on the CDC guidelines and helping them move  
25 toward those and things like that. I think it was based on

1 management's best estimate of what was correct for the  
2 business. I can't tell you all the factors that went into  
3 their thinking.

4 Q What was the reason you voted in favor of ceasing all  
5 marketing in the United States?

6 A We had a very esteemed management team that we hired  
7 with great expense, that had some of the best minds that we  
8 could recruit, who were advocating for it. So I thought it  
9 was wise to support their decision for the business.

10 Q I understand that you deferred to the management  
11 recommendation. I'm asking what were the factors that you  
12 considered important in supporting the decision to cease all  
13 marketing in the United States?

14 A Sorry. I thought I answered that. I mean the most  
15 important factor, the overriding factor was management and  
16 their belief that it was the best thing to do for the  
17 business at the time.

18 Q When you say "best," best how? Best legally? Best  
19 morally? Best for maximizing your revenues? Please  
20 explain.

21 A As I said, I don't recall the management's rationale  
22 for doing it. But I think, I think it was -- unfortunately,  
23 I just don't recall at this point all of management's  
24 reasons for doing it.

25 Q It wasn't because you were being sued -- Purdue Pharma



1 was being sued by many states, municipalities, and other  
2 entities?

3 A No. I think that it was an independent decision by  
4 management, but again, I can't put myself into management's  
5 head and tell you why they made that recommendation. So if  
6 that played into it, it didn't -- I don't recall.

7 Q All right. You are still on this company called MNP  
8 Consulting; is that correct you're on the Board?

9 A I believe MNP has now changed its name to MNC, but,  
10 yes.

11 Q MNC, excuse me.

12 A Yeah.

13 Q That's the entity that makes recommendations to the  
14 IACs internationally?

15 A To the Boards of the IACs, yes.

16 Q Those IACs continue to sell opioids. Is that correct?

17 A Some do, yes.

18 Q They also continue to market opioids; is that correct?

19 A Some do, yes.

20 Q And that means that the marketing of opioids will pay  
21 for your obligations in this matter, correct?

22 A Not necessarily, no.

23 Q To the extend marketing influences prescribing, it will  
24 help pay for this settlement in the United States?

25 A Let me try to unpack this. You know, I don't know how

1 to answer that to the level of specificity that you want.

2 The value of the IACs is a complicated thing with a myriad  
3 of factors that need to be considered. So sales trajectory  
4 is only one of them.

5 Q Does the moral responsibility that you discussed with  
6 Mr. Higgins end at the United States' borders?

7 A Certainly not.

8 MR. ROBINSON O'NEILL: All right. I have no more  
9 questions. Thank you.

10 THE COURT: Okay. Does anyone else want to  
11 question Mr. Sackler?

12 MR. UNDERWOOD: Your Honor, this is Allen  
13 Underwood on behalf of certain Canadian Municipal Creditors  
14 and Canadian First Nations. I'd like to ask a few precise  
15 questions.

16 THE COURT: All right.

17 MR. UNDERWOOD: Thank you.

18 CROSS-EXAMINATION OF DAVID SACKLER

19 BY MR. UNDERWOOD:

20 Q Mr. Sackler, your asserted goal is a global release,  
21 and a quote from today, "final separation from the Debtor."  
22 Is that not correct?

23 A I think those things are redundant in the way you  
24 phrased them. I think one if the other, but, yes, that is  
25 the goal.

1 Q Okay. And by final separation from the Debtor, don't  
2 you really mean a final separation from the worldwide opioid  
3 business?

4 A No. I think we just covered the families' continuing  
5 business that's out of the U.S., so, no, that's not what it  
6 means. But ultimately it means that. The settlement for  
7 the family to sell the IACs over the remaining, over seven  
8 years and through that process, exit the opioid business.

9 Q Thank you and that was an answer to the question if I  
10 had phrased it better. Mr. Sackler, isn't it correct that  
11 one of the fundamental principles of the plan before this  
12 Court is that the Sacklers withdraw from the management of  
13 all U.S. and foreign Purdue opioid-related entities?

14 A I'm not sure I understand. In the U.S., the family has  
15 withdrawn a few years ago. So I don't understand your  
16 question.

17 Q It is ultimately -- is it not ultimately the goal of  
18 the Sackler family to withdraw from the opioid-related  
19 business worldwide, and granted that may take seven years,  
20 but isn't that the ultimate goal?

21 A Well, that's part of the agreement.

22 Q Thank you. Finality and fairness are a goal this Court  
23 and a goal of the Creditors before this Court. Are finality  
24 and fairness your goals in participating this process?

25 A I think absolutely and I think the voting in this case

1 and then the acceptance of the deal by the Creditors,  
2 overwhelming so, speaks to that.

3 Q Mr. Sackler, under the existing plan, the U.S. Purdue  
4 entities will be, in effect, given over as public trusts for  
5 the benefit of a variety of interests; is that not correct?

6 A I believe so, yes.

7 Q And as I think you've addressed, is it not correct that  
8 the IACs, which are termed properly independent associated  
9 companies, the equity of same being held of family trusts or  
10 estates in which Sackler family members are beneficiaries,  
11 are to be sold over a period of years to help fund the  
12 settlement agreement obligations of the Sackler family to  
13 the opioid trust under the plans?

14 A Sorry. You went over a lot of ground there. Is there  
15 any way you can cut that question up because I want to  
16 answer it for you, but I'm not sure I understand it totally?

17 Q Thank you, I will. The IACs, family trusts are  
18 agreeing the IACs will be sold over a period of years to  
19 fund the settlement agreement and the opioid trusts under  
20 the plan; is that correct?

21 A Sort of. It's sort of correct. As Mr. Joseph has  
22 pointed out and I pointed out, throughout my testimony the  
23 IACs are security interest and their sales, the proceeds  
24 from those will go to fund the settlement agreement, that is  
25 true. There is a condition whereby the family has to sell

1       them over a certain number of years. That is also true.

2       But you know it is possible that the family needs to finance  
3       the settlement in a different fashion, although I think  
4       unlikely, or I hope unlikely. I'm sorry. I hope that  
5       answered your question. I'm finding it a little bit  
6       difficult to follow.

7       Q     I think you answered the question and thank you. Mr.  
8       Sackler, do you know here the proceeds of the operation of  
9       those entities prior to sale under the plan will go?

10      A     Well, I mean all those entities have with them the net  
11      proceeds. I think you need to talk in terms of net proceeds  
12      rather than proceeds because for example, in the business  
13      you have the most interest in in Canada, that business, the  
14      proceeds from that, well eventually the net proceeds, the  
15      net of liabilities will flow to family trust for the benefit  
16      of the settlement.

17           And then it will be transferred -- well, actually, let  
18      me back up. I'm not entirely sure on the plumbing. I'd  
19      have to defer to my lawyers for that but the liabilities  
20      need to be looked at as well as the asset value. So in the  
21      case of Canada, the financial advisors for the UCC and for  
22      the Debtors have spent extensive time thinking about those  
23      liabilities, I believe from my understanding. And once  
24      those are settled, the net proceeds can then move.

25      Q     Mr. Sackler, isn't it true that not all international

1 creditors of the IACs would either be bound by or released  
2 by an order confirming a plan before this Court?

3 MR. JOSEPH: Objection, legal conclusion.

4 THE WITNESS: I was going to say I'd have to  
5 consult my attorney. I don't know if that makes your life  
6 easier. I just don't know.

7 MR. UNDERWOOD: I think the purpose for asking the  
8 question, Your Honor, is to have a better understanding of  
9 what the Sackler's family expectation of the results of this  
10 process is and I'm not sure there's a privilege aspect to  
11 that.

12 THE COURT: All right. Let me ask the question  
13 differently then because I think you are asking what the  
14 effect of the release might be. The terms of the release we  
15 all know. The effect of it is a legal question as it  
16 pertains to wholly foreign entities. But your question  
17 really is one I think one that the witness probably already  
18 has addressed. Tell me if this is where you want to go with  
19 this, Mr. Underwood.

20 Is it your belief, Mr. Sackler, that  
21 notwithstanding the claims by Creditors against the IACs  
22 that are not subject to the release under the plan, the net  
23 proceeds, whether in terms of cash flow or sale proceeds,  
24 along with the settling parties' other assets, will be  
25 sufficient to fund the settlement?

1 THE WITNESS: Oh, boy, Your Honor. I'm having  
2 difficulty following that.

3 THE COURT: The question is -- let me ask it  
4 differently. Your answer assumes that the net proceeds from  
5 the IACs would go to fund the settlement in all likelihood  
6 and under certain circumstances, they would have to be sold.  
7 But you referred to net proceeds, net of liabilities.

8 THE WITNESS: Yes.

9 THE COURT: So the question is from your side of  
10 things, not the Debtor's side or the Creditor's side, but  
11 from your side of things, do you believe that the net  
12 proceeds, which assumes, of course, it's net of all claims  
13 against those entities, including claims that aren't  
14 released, would be sufficient, along with your families'  
15 other assets, to pay the settlement?

16 THE WITNESS: Certainly, yes. I believe that's  
17 the case, though, again, I would defer back to the Creditors  
18 Committee here, the Unsecured Creditors Committee and the  
19 Debtor who have done extensive diligence on this more than I  
20 could ever present.

21 THE COURT: But as far as you're concerned, you're  
22 not agreeing to something that you believe your family is  
23 going to default on?

24 THE WITNESS: Certainly not, no.

25 BY MR. UNDERWOOD:

1 Q Thank you. Isn't it also true though, Mr. Sackler,  
2 that once those IACs are sold or liquidated and the net  
3 proceeds are paid over the U.S. Opioid Trust, the only  
4 remaining recovery by foreign creditors who have not  
5 participated in the plan or did not receive distributions  
6 hereunder would potentially be against management,  
7 executives, and Sackler family members with regard to those  
8 very IACs?

9 MR. JOSEPH: Objection. Legal conclusion. It  
10 makes assumptions whether there's going to be actions in  
11 advance of sale and it makes multiple assumptions and he's  
12 not qualified to answer.

13 THE COURT: Okay. I think that's right, Mr.  
14 Underwood. It's too broad a hypothetical.

15 MR. UNDERWOOD: Okay. Maybe I'll try to rephrase  
16 it.

17 BY MR. UNDERWOOD:

18 Q Mr. Sackler, once the IACs are sold or liquidated and  
19 the net proceeds contributed to the U.S. Opioid Trust, are  
20 there any other avenues of recovery that you are aware of  
21 with regard to foreign claimants or creditors that are not a  
22 part of this U.S. bankruptcy process?

23 A I would have to consult with my attorneys to be able to  
24 answer your question. I'm sorry. I just -- this is sort of  
25 assuming future liability that doesn't exist today and a



1 bunch of other things that I don't feel qualified to answer  
2 this question for you. I'm sorry.

3 Q Fine. And thank you for trying. If the liquidation  
4 and sale of the IACs with the contribution of net assets to  
5 the U.S. Opioid Trust does not eliminate the potential  
6 released claims, claims that are released in the U.S.,  
7 doesn't that defeat the intention of a global release and  
8 final separation under this plan?

9 MR. JOSEPH: Objection, form. I honestly do not  
10 understand that and I'm reading it.

11 THE COURT: That's sustained, Mr. Underwood. I  
12 didn't follow the question either.

13 BY MR. UNDERWOOD:

14 Q So the question I think ultimately is to one of  
15 finality, Mr. Sackler. And I think the question is it  
16 appears that there are potentialities for the Sacklers to be  
17 required a) to contribute more than they have considered if  
18 the IACs lose value. Are you aware of that possibility?

19 A As I previously testified, the IAC value is hard to  
20 estimate and there are a myriad of factors that make it go  
21 up and down. So, of course, I'm aware, yes.

22 Q And ultimately, is it not true that there is  
23 potentially significant international liability that is not  
24 addressed by the plan before this Court, but that could  
25 impact the Trust's ultimate ability to satisfy the

1 obligations to the Trust -- to the Purdue Opioid Trusts?

2 A I know of no such activity besides the Canadian  
3 actions.

4 Q Are you aware that Purdue Frederick, Inc., is a  
5 Canadian corporation?

6 A No, as I testified. I'm sorry. I just don't know the  
7 structure.

8 MR. UNDERWOOD: I thank you for your time, Mr.  
9 Sackler. And I have no further questions. Thank you, Your  
10 Honor.

11 THE COURT: Okay. All right. Does anyone else  
12 want to cross-examine Mr. Sackler?

13 MR. OZMENT: Your Honor, this is Frank Ozment. I  
14 have a few questions to follow up on what Mr. Edmunds was  
15 pursuing.

16 THE COURT: Okay.

17 MR. OZMENT: Thank you.

18 CROSS-EXAMINATION OF DAVID SACKLER

19 BY MR. OZMENT:

20 Q Mr. Sackler, my name is Frank Ozment. And I represent  
21 some individual claimants, Stacy Bridges, Creighton Boyd,  
22 and Charles Fitch. In part of your answers to Mr. Edmunds'  
23 questions, I had some difficulty following what you were  
24 saying, probably because some of the audio, but I want to go  
25 back and touch on some of those answers as opposed to

1 anything you said in your declaration. I think you  
2 testified, of course, that people use opioids for legal and  
3 illicit -- legal and licit reasons. And if I understood you  
4 correctly, you're talking about medically indicated reasons,  
5 right?

6 A Yes. Correct.

7 Q Okay. And if people are using opioids for medically  
8 indicated reasons, they can become dependent on them. Is  
9 that right?

10 A Yes, that's correct.

11 Q Okay. And in fact, your company, or Purdue, actually  
12 made some medicine to help people manage or reduce the  
13 dependence. Is that right?

14 A I'm sorry. I don't know what you're referring to. Can  
15 you give me a product name?

16 Q Sure. What I'm -- I was going to ask you for product  
17 names. I know one of them is buprenorphine. I mean, Purdue  
18 manufactures Suboxone, right?

19 A I don't -- at least at the time I was a director, I  
20 think that was a potential development opportunity. But I  
21 don't know if they now have entered the Suboxone market. I  
22 don't recall.

23 Q Okay. So that wasn't --

24 A Buprenorphine, just for the sake of completeness,  
25 Butrans is a buprenorphine patch that is not for curbing --

1 or whatever indication you brought up. But Purdue does  
2 market that, or manufacture.

3 Q Okay. And do you know what that Butrans is used for?

4 A Yeah. Pain.

5 Q Okay.

6 A Treatment of pain.

7 Q And so, as you sit here today, you don't really recall  
8 anything that they made to reduce that dependence, correct?  
9 While you were (indiscernible)?

10 A I remember Rhodes was interested in developing generic  
11 Suboxone. I know the NDT has confirmed it is very  
12 interested in supplying Suboxone at or below cost. So my  
13 assumption is that project was or can be completed. You  
14 know, Purdue was developing Nalmaphene during my time on the  
15 Board, I believe, and is very supportive of that. That  
16 doesn't reduce dependence, but it reverses overdose.

17 Q Right.

18 A I don't know where that project stands today.

19 Q One of the things that you testified to is that in many  
20 instances, death from opioid use is really something that's  
21 more likely to involve illicit use. Did I understand you  
22 correctly when you were talking about that?

23 A Oh, I think that that's indisputable, from the current  
24 statistics. Yes.

25 Q And I'm not disputing you now. I just want to follow-

1 up on what you meant by that. Okay? And when you're  
2 referring to illicit use, are you really -- is that  
3 referring largely to heroin?

4 A Well, it depends on what you're talking about. It's --  
5 illicit use is a variety of things. I think today, the most  
6 dangerous illicit narcot -- well, opioid is fentanyl,  
7 clearly, where the majority of overdoses come from. Heroin  
8 is another illicit opioid, yes.

9 Q Okay. And as a practical matter, when somebody is  
10 dependent on an opioid, either because of their medically  
11 indicated use, or for other reasons, it's dangerous for them  
12 abruptly to discontinue that without medical supervision,  
13 isn't it?

14 A I believe that's correct. I think the FDA has issued a  
15 letter of guidance on this front. So I would defer to that  
16 as -- you know, them, as the sort of leading authority.

17 Q Sure. But as an executive who's been in that business,  
18 I mean, that's fairly common knowledge, isn't it?

19 A Yes. It's on the label of most of the medications that  
20 shouldn't abruptly stop. And frankly, dependence is a  
21 feature of many medications outside of (indiscernible)  
22 products. Anti --

23 Q Right. And the difference being with this medication  
24 is we actually have available other medications to assist  
25 with that dependence reduction, right?

1 A Well, I think there's some confusion here in your  
2 answer between, you know, dependence and addiction. I think  
3 you may be muddling the to a little bit. Normally,  
4 hopefully, dependent -- patients who are dependent on an  
5 opioid can simply be titrated down and stepped off the  
6 opioid, right, without going to something like  
7 buprenorphine, which is reserved for, you know, medication-  
8 assisted therapy for addiction -- you know, opioid use  
9 disorder and addiction. So they're kind of two different  
10 things, a little bit. It's not --

11 Q And I think that's a point well taken, and I want to  
12 follow up on what you said about medicine-assisted therapy.  
13 Okay? So with medicine-assisted therapy, that's something  
14 that is used to reduce addiction, correct, or to manage  
15 addiction?

16 A To manage it and, hopefully, help patients, you know,  
17 be cured of addiction. Yes.

18 Q And sometimes that can be a long-term undertaking. Is  
19 that right?

20 A From the data I've seen, yes, that's accurate.

21 Q And does MAT basically reduce that risk of overdose  
22 from -- I'm sorry -- does MAT basically reduce the risk of  
23 death associated with overdose from illicit usage? Is that  
24 fair?

25 A You're pushing me beyond my limits of my knowledge of

1 the studies. So I would want to consult the literature to  
2 see if that's been studied and confirmed.

3 Q Okay. And I may be pushing your limits on this for one  
4 last question, but I think it's within your (indiscernible)  
5 well. And that is, when people are using MAT, it's  
6 important for them to have therapy and counseling to support  
7 that, isn't it?

8 A You know, I'm not an expert on the state of the art  
9 today and what is medical best practice. So you could be  
10 right. I just -- I don't know enough on MAT usage and sort  
11 of what's used in conjunction with it.

12 MR. OZMENT: That's all I have, Your Honor. Thank  
13 you.

14 THE COURT: Okay. All right.

15 MR. ROTHSTEIN: Your Honor, this is Paul  
16 Rothstein.

17 THE COURT: Go ahead, Mr. Rothstein.

18 CROSS-EXAMINATION OF DAVID SACKLER

19 BY MR. ROTHSTEIN:

20 Q Mr. Sackler, my screen is not working so well, so I'm  
21 not seeing your picture. But I do have some follow-up  
22 questions. I represent Dr. Masiowski in these proceedings.  
23 He's been a Board Certified Emergency Room Physician for  
24 over 25 years. And what I want to know is, has your  
25 position in the Sackler group, has there ever been any

1 discussions at the Board to implement non-medicated policies  
2 to deal with the opioid abuse problem? And if so, are you  
3 able to identify what those policies have been?

4 And I ask this because Dr. Masiowski has been a  
5 strong proponent of the implementation of non-medicated  
6 strategies to combat the opioid crisis.

7 A Well, I'm not sure what you mean by non-medicated.  
8 Could you just give me an example, and then I think I'll be  
9 able to answer your question?

10 Q Well, there are many strategies out there, whether to  
11 minimize the opioid use, whether it be strategies such as  
12 meditation, such as strategies up here, group therapy, these  
13 types of strategies that Dr. Masiowski has been advocating  
14 in order to minimize medications as the forefront for the  
15 opioid abuse crisis. And I want to know what your views  
16 have been on that, and what the Sackler Family and the  
17 Sackler entities' views about funding those types of  
18 efforts.

19 A Okay. All right. So there's a lot there to unpack, so  
20 I'll try and do it bit by bit. So as -- at Pursue, as a  
21 pharmaceutical company, we spent a great deal of time and  
22 money trying to develop non-opioid treatments for pain, both  
23 chronic and acute.

24 We're not a company that -- you know, it was not a  
25 business that was ever sort of looking at non-medication



1 modalities like meditation. You know, the data on those,  
2 I'm just uncertain about, whether or not, you know, there is  
3 large, controlled trials to demonstrate the utility there.  
4 If there are, great. Or even if it works anecdotally, you  
5 know, I applaud his efforts.

6 As far as Purdue, you know, we concentrated our  
7 efforts on trying to develop one, safer opioids, our R&D  
8 efforts, which is, I think, what you're getting at. So one,  
9 safer opioids on a variety of fronts, both abuse deterrent  
10 and with properties like less respiratory depression. And  
11 two, on non-opioid modalities for treating pain. And I can  
12 name a few of those projects. Unfortunately, they didn't  
13 succeed in the clinic, but they were extremely costly.

14 And then, you know, then outside of that, doing a  
15 lot of work -- there are over 60 programs at Purdue embarked  
16 upon over the course of time that have nothing to do with  
17 medication or anything else designed to combat opioid abuse  
18 and diversion. So I can tell you about some of those.  
19 Sponsorship at the National Sheriff's Association. Heavy  
20 emphasis on prescription drug monitoring programs. Purdue  
21 funded many of those in states, brought together experts to  
22 help the states develop those programs and best practices,  
23 consulted on many of them.

24 So there's over 60 programs. I think this is a  
25 side of Purdue and a story that may never be told, but there

1 were a vast number of things Purdue was trying to do, from  
2 the very start, from 2001 all the way to, you know, the  
3 present. The Debtor is still working on those efforts, as I  
4 understand it.

5 MR. ROTHSTEIN: I have no further questions

6 THE COURT: Okay. Thank you.

7 MR. HUEBNER: Your Honor, Marshall Huebner, of  
8 Davis Polk, for the Debtors. I have seven questions for Mr.  
9 Sackler.

10 THE COURT: Okay.

11 CROSS-EXAMINATION OF DAVID SACKLER

12 BY MARSHALL HUEBNER:

13 Q Mr. Sackler, can you see and hear me clearly?

14 A Yes. That's one of your seven, Mr. Huebner.

15 Q 7.7. Mr. Sackler, are you generally aware of the  
16 structure of the 2019 settlement framework, with which  
17 Purdue entered Chapter 11?

18 A Yeah, I'm generally aware. Yes.

19 Q And would you consider it a fair summary if I said that  
20 the Sacklers, among other covenants -- but I'll focus only  
21 on the financial parts -- were obligated to pay \$3 billion  
22 of guaranteed consideration, and then there were splits of  
23 the net proceeds of IAC proceeds above that. In rough  
24 terms, it was 90 percent to the estate of the next \$1.5  
25 billion above \$3 billion, and then 50 percent of things

1 above approximately \$4.6 billion. Is this more or less an  
2 accurate summary?

3 A Yes. I remember it well.

4 Q Okay. And so, is it correct in your recollection that  
5 under the original settlement framework, the estates  
6 actually had a very -- potentially variable amount of  
7 recovery. It could be \$3 billion; it could be \$3.5, it  
8 could be \$3.8, it could be \$4.-something or more, based on  
9 the net proceeds of the IACs.

10 A Yes. That is correct.

11 Q Okay. So the estate essentially were taking risks, but  
12 had a contingency with respect to IAC net proceeds amounts?

13 A Yes.

14 Q Okay. Are you generally familiar with the current  
15 settlement framework that we expect you to be on the brink  
16 of being ready to sign as the documents fulfill their final  
17 rounds of wordsmiths?

18 A Yes. And thank you for reminding me I had not yet  
19 signed it. I was asked that before and --

20 Q Is it a fair summary, to your knowledge, that the  
21 Sacklers collectively -- and I'm using the Sacklers in the  
22 same colloquial sense that people have been using it  
23 throughout this trial -- are now obligated to pay a fixed  
24 amount of \$4.325 billion?

25 A Yes.

1 Q Do you agree with that?

2 A Yes.

3 Q And are you aware that, therefore, irrespective of  
4 whether the IACs sell for 2 billion, 3 billion, 1 billion, 4  
5 billion, or some other number, your obligation in the  
6 current deal is to pay \$4.325, irrespective of IAC net sale  
7 proceeds?

8 A That's correct.

9 Q Okay. And do you understand that if you fail to pay  
10 that, whether because the IAC sale proceeds are less than  
11 you hoped them to be, or for any other reason, that the  
12 virtual certain consequence of that is that the estate and  
13 many, many other parties, likely numbering in the hundreds  
14 or thousands, will go back to suing you, or the Debtors'  
15 estate, obviously created recently, will commence suing you  
16 for probably tens of billions or more of dollars?

17 A Yes, I am aware of that.

18 Q Okay. And just so there's no confusion -- because  
19 people asked you about your goals and aspirations, which  
20 frankly are not really of great interest to me -- I care  
21 about your obligations -- do you understand that the current  
22 settlement agreement obligates the Sackler Family to exit  
23 the worldwide pharmaceutical industry in a fixed period of  
24 time?

25 A Yes. We understand that well.

1 Q And I assume that you intend to comply with that  
2 obligation as well?

3 A Absolutely.

4 Q Thank you.

5 MR. HUEBNER: I have no further questions, Your  
6 Honor.

7 THE COURT: Okay. All right. I think we're at  
8 redirect, but it's 1:30. I don't know if it makes sense to  
9 break, with Mr. Sackler not talking to anyone about his  
10 testimony during that break. I don't know how much time you  
11 have, Mr. Joseph, for redirect.

12 MR. JOSEPH: No questions, Your Honor.

13 THE COURT: Okay. All right. So hearing no one  
14 else with questions, Mr. Sackler, you can sign off from your  
15 testimony. Okay. I think this actually is a good time to  
16 break for lunch now. Mr. Cushing's availability ends at  
17 4:30? Is that right?

18 MS. TONNESEN: Yes, Your Honor.

19 THE COURT: All right. So --

20 MS. TONNESEN: That's about 10:30 his time.

21 THE COURT: All right. So we'll have -- I'm  
22 assuming you won't be longer than a couple of hours, so --

23 MS. TONNESEN: No.

24 THE COURT: -- I think if we return in an hour,  
25 that should be -- and he's ready to testify then, we'll be

1 able to cover him.

2 MS. TONNESEN: Yes. Will have him ready to sign  
3 on in an hour.

4 THE COURT: All right. So we'll be back at 2:30  
5 New York time.

6 MS. TONNESEN: Thank you.

7 THE COURT: Thank you.

8 (Recess)

9 THE COURT: All right. Good afternoon. This is  
10 Judge Drain, and we're here in In re Purdue Pharma LP et al.

11 And I believe the next witness to be heard from is  
12 Michael Cushing, although before Mr. Cushing testifies, I  
13 believe there may be an objection to the admission of his  
14 expert report, which was the subject of some e-mail  
15 correspondence last week or the week before between the Side  
16 A counsel and counsel for the State of Maryland. I don't  
17 know if that objection is still being pursued.

18 MS. TONNESEN: Your Honor, this is Sara Tonnesen  
19 for the State of Maryland. Although -- you saw our letter.  
20 We have concerns that Mr. Cushing's expert opinion is the  
21 same, trying to --

22 THE COURT: I'm sorry. You're coming through very  
23 faintly, Ms. Tonnesen.

24 MS. TONNESEN: I apologize. I'll try to get  
25 closer. Is that --

1 THE COURT: Thank you.

2 MS. TONNESEN: Can you hear me better? Great.

3 You know, we believe Mr. Cushing's expert opinion  
4 provides the same kind of hypothetical scenario that is  
5 neither relevant nor particularly helpful to the Court. But  
6 because this is a bench trial, we're comfortable eliciting  
7 that information on cross examination. We don't have an  
8 objection at this point.

9 THE COURT: Okay. Very well. Thank you for that  
10 update.

11 All right. So Mr. Cushing, would you raise your  
12 right hand, please? Do you swear or affirm to the truth,  
13 the whole truth, and nothing but the truth so help you God?

14 THE WITNESS: I do.

15 THE COURT: And it's Michael, M-I-C-H-A-E-L,  
16 Cushing, C-U-S-H-I-N-G?

17 THE WITNESS: That's correct, Your Honor.

18 THE COURT: Okay. Mr. Cushing, you submitted an  
19 expert report dated June 15, 2021, with a lengthy set of  
20 exhibits to it. Under my order establishing procedures for  
21 this hearing, it is intended to be your direct testimony in  
22 this hearing. Knowing that and sitting here today, August  
23 17th, is there anything in your expert report that you would  
24 wish to change?

25 THE WITNESS: No, sir.

1 THE COURT: Okay. All right. And I gather that  
2 the State of Maryland no longer has an objection to the  
3 admission of the report. Does anyone else object to its  
4 admission as Mr. Cushing's direct testimony?

5 MR. HUEBNER: Your Honor, this is Marshall Huebner  
6 for the Debtor. Just one procedural point for five seconds.  
7 We certainly don't object to its admission.

8 I do want to be clear and remind everybody --  
9 because there's a lot of cross examination going on that may  
10 or may not really be needed -- there is a stipulation that  
11 we've read into the record. And the Debtors, for example,  
12 are not bound nor in any way deemed to agree to anything in  
13 this or any other witness's testimony, which for that reason  
14 that we're not engaging in quite extensive cross examination  
15 of every witness.

16 And so again, I know that's nothing everyone  
17 doesn't know, but since there are people dancing in and out  
18 of the hearing, frankly, and some people quite new to the  
19 case, not everybody I think understood the stipulation the  
20 first time.

21 I do want to be clear for the record with respect  
22 to this and following witnesses that the Debtor's lack of  
23 (indiscernible) cross examination and silence does not bind  
24 the estate to any form of agreement with the content of any  
25 witness's declaration or testimony.



1 THE COURT: Right. And as I stated repeatedly  
2 when this point has come up, I find it very hard to believe  
3 that there would be any collateral estoppel effect from the  
4 failure -- or not even the failure -- from the fact that  
5 there is not cross exam of Mr. Cushing in any subsequent  
6 litigation. And that applies not only for the Debtors but  
7 for any party in interest in the case.

8 I am considering Mr. Cushing's expert testimony  
9 only insofar as it reflects on the issues pertaining to my  
10 consideration of the proposed settlement -- that is a  
11 central element of the Debtor's Chapter 11 plan -- and not  
12 with respect to the merits of any underlying litigation that  
13 might ensue if the settlement is not approved or if the  
14 settlement is breached and there is subsequent litigation.

15 So does anyone want to cross examine Mr. Cushing  
16 on his declaration, which again is an expert declaration  
17 with respect to the law of the Bailiwick of Jersey as it  
18 applies as discussed in the declaration itself?

19 MS. TONNESEN: Your Honor, Sara Tonnesen on behalf  
20 of the State of Maryland.

21 THE COURT: You can go ahead, Ms. Tonnesen.

22 MS. TONNESEN: Thank you.

23 CROSS EXAMINATION OF MICHAEL CUSHING

24 BY MS. TONNESEN:

25 Q Good afternoon, Mr. Cushing.

1 A Good afternoon.

2 Q Is it your testimony in this case that Jersey's Royal  
3 Court has the inherent jurisdiction deriving from its  
4 customary law to recognize and enforce foreign judgments?

5 MS. MONAGHAN: Objection to the form.

6 MS. TONNESEN: Your Honor, I can ask again. I'd  
7 be happy to show Mr. Cushing an exhibit that might get us  
8 (indiscernible).

9 THE COURT: Okay.

10 BY MS. TONNESEN:

11 Q Mr. Cushing, I believe you would've gotten a series of  
12 documents from your counsel ahead of your testimony today.  
13 Can you open up KX-1588?

14 A I'm on -- I'm working from an iPad, unfortunately, with  
15 (indiscernible) PDF attachments. So I have looked at the  
16 attachments. If you could tell me what that attachment is  
17 rather than by reference.

18 Q Of course. And that's actually the June 15th expert  
19 report, so you probably have it pretty handy.

20 THE COURT: It's your expert report.

21 THE WITNESS: Oh, I do have that.

22 BY MS. TONNESEN:

23 Q So if you want to turn to the bottom of Page 5 at  
24 Paragraph 10.2.

25 A Yes.

1 Q You opine here Jersey's Royal Court does however have  
2 an inherent jurisdiction to recognize and enforce foreign  
3 judgments (indiscernible) investment agency (indiscernible)  
4 fidelis nominees unlimited 2008 (indiscernible) 337 Royal  
5 Court, clear and correct copy. Booklet. This derives from  
6 Jersey customary law. Your opinion hasn't changed --

7 A Yes.

8 Q -- since June 15th, has it?

9 A No, it hasn't.

10 Q Great. In preparing to provide your June 15th expert  
11 report, you performed legal research as to whether there was  
12 any direct authority from the Royal Court on the enforcement  
13 of a U.S. judgment, right?

14 A I'm sorry. I missed the question. There was some  
15 rustling, I'm afraid.

16 Q Yeah. Of course. When you were preparing your expert  
17 report that you submitted on June 15th, you performed legal  
18 research in preparation for writing that report?

19 A That's correct.

20 Q Yes. And did you look into whether there was any  
21 direct authority from the Royal Court as to an enforcement  
22 of a U.S. judgment?

23 A Yes, I did. I did a search in the reported and  
24 unreported judgments which are available on the Jersey Legal  
25 Information Board website to see if I could identify any

1 U.S. judgments which had been enforced. I wasn't able to  
2 identify any in that search. But that said, the search only  
3 went back 10 years in looking at the records.

4 Q Okay. And when you did that search at the time you  
5 were deposed, you weren't aware of any cases in which the  
6 Royal Court of Jersey failed to enforce a U.S. judgment  
7 either -- let me ask that again. I apologize.

8 At the time you were writing your expert report, you  
9 weren't aware of any cases in which the Royal Court of  
10 Jersey failed to enforce a judgment of any United States  
11 state court, right?

12 A I'm -- I didn't identify any in my research, no.

13 Q Nor did you find any cases in which the Royal Court  
14 failed to enforce a judgment of any United States federal  
15 court, right?

16 A That's correct.

17 Q Okay. Thank you. And for purposes of forming your  
18 expert opinions in this case, did you review the underlying  
19 Side A trust documents?

20 A The only documents that I reviewed for the purposeless  
21 of preparing the expert report was the instruction letter  
22 that I received from Debevoise & Plimpton, and that's  
23 appended to my expert report. I saw nothing else.

24 Q All right. And you based your opinion on hypothetical  
25 scenario, right?

1 A Indeed. That was what I was instructed to do. Yes.

2 Q And you've been practicing law in Jersey since 2005,  
3 correct?

4 A That's correct.

5 Q And in your practice, if you were asked to handle a  
6 case that involved the interpretation of a trust instrument,  
7 you would review the trust documents at issue, wouldn't you?

8 A If I was asked to advise on the interpretation of a  
9 trust document, yes. In order to interpret a trust  
10 document, I would want to see the document itself. Yes.

11 Q Okay. And in fact, as a matter of Jersey law, the  
12 Court would also begin its interpretation of any trust  
13 instrument by looking at the words of the trust document and  
14 construing the trust instrument; isn't that right?

15 A If there was a question of interpretation or  
16 construction of the document, then yes. It seems to me the  
17 Court would need to review the document in order to  
18 interpret and construe the document. Yes.

19 Q I just have one more thing for you this afternoon, Mr.  
20 Cushing. If you could turn to JX-1589. I know you asked me  
21 to tell you what that is. There's an opinion appended to  
22 your deposition transcript. I believe it's Exhibit 2. The  
23 citation is 2017 JRC 100 for Royal Court of New -- of  
24 Jersey.

25 A Yes. It's an -- it's the 2017 judgment, I believe,

1 isn't it?

2 Q And on Page 2 of -

3 A It's (indiscernible).

4 Q I'm sorry. I didn't mean to cut you off.

5 A Sorry. I'm with you, Page 2.

6 Q Okay. I'm sorry. I think there must've been some  
7 feedback.

8 On Page 2 of that document, it says at the top Advocate  
9 M.P. Cushing for third, fourth, and fifth respondents.  
10 That's you, right?

11 A Yes. That's correct.

12 Q And the family referred to in this judgment is the  
13 Mortimer Sackler family, right?

14 A I believe it's the Mortimer Sackler family, yes.  
15 Certainly members of the Sackler family.

16 Q Could you tell me specifically if you recall which  
17 members of the Sackler family?

18 A Sadly, I don't. I'm afraid this was four or five years  
19 -- four years ago, wasn't it? I don't recall the names.

20 MS. TONNESEN: I understand. No further  
21 questions, Your Honor.

22 THE COURT: Okay. Does anyone else want to cross  
23 examine Mr. Cushing? No.

24 I had one question, sir, if you have your expert  
25 report there handy?

1 THE WITNESS: Yes, sir.

2 THE COURT: If you take a look at Paragraph 10.19  
3 on Page 11.

4 THE WITNESS: Yes, sir.

5 THE COURT: And in that paragraph, you state your  
6 belief that even if therefore and in persona before a  
7 judgment against the trustees would be enforceable as a  
8 matter of Jersey customary. The judgment would be  
9 unenforceable under the statutory prohibition contained in  
10 Article 9 of the trusts (Jersey) law 1984 to the extent that  
11 the judgment itself is inconsistent with the provision of  
12 Article 9. Do you see that opinion?

13 THE WITNESS: I do, sir. Yes.

14 THE COURT: So the question I have then is I take  
15 it from that that you reached the conclusion that if there  
16 is an inconsistency, the plaintiff that obtained the foreign  
17 judgment would have to start over again in Jersey; is that a  
18 fair --

19 THE WITNESS: It is, sir, because the -- the  
20 provisions of the trust law, Article 9 particularly of the  
21 trust law, are designed to ensure that Jersey trusts are  
22 only construed, interpreted and the validity of those trusts  
23 is determined applying only matters of Jersey law rather  
24 than (indiscernible) foreign law.

25 And if there is a judgement which is obtained

1 where issues of foreign law are taken into account -- so for  
2 example, in relation to the interpretation of the trust  
3 instrument, that trust instrument is interpreted using  
4 principles which are different to those which a Jersey court  
5 would apply. Then the judgment would be unenforceable as a  
6 matter of statute in Jersey.

7 THE COURT: Right. But my -- so let me -- I'll  
8 ask you my next question, which is if the judgment creditor  
9 started over again in the Royal Court in Jersey, would that  
10 court then apply principles of choice of law to decide  
11 whether the issue should be decided under Jersey law or  
12 under the foreign law? So it would apply Jersey choice-of-  
13 law principles to decide what law should apply on the  
14 underlying merits. Is that a concept that applies in --  
15 under Jersey law?

16 THE WITNESS: Yes, sir.

17 THE COURT: So it's conceivable it would apply,  
18 for example, U.S. law if Jersey choice of law principles  
19 would direct the court to U.S. law?

20 THE WITNESS: That's correct, sir.

21 THE COURT: Okay. All right. Thank you. All  
22 right.

23 MS. TONNESEN: Your Honor, I apologize. I  
24 apologize, but can I please move JX-1589 into evidence?  
25 (Indiscernible).



1 THE COURT: That's the legal decision by the Royal  
2 Court?

3 MS. TONNESEN: Yes, please.

4 THE COURT: Okay. Is there any objection to that,  
5 Ms. Monaghan?

6 MS. MONAGHAN: No, Your Honor.

7 THE COURT: Okay. It's admitted as JX-1589.

8 MS. TONNESEN: Thank you.

9 THE COURT: Okay. All right. Is there any  
10 redirect?

11 REDIRECT EXAMINATION OF MICHAEL CUSHING

12 BY MS. MONAGHAN:

13 Q Just one quick question, Mr. Cushing. Would the Jersey  
14 law -- would the Jersey Royal Court apply non-Jersey law if  
15 it was inconsistent with the law of Jersey under its choice-  
16 of-law principles?

17 A Not in relation to the (indiscernible) interpretation  
18 of a trust, no. The Royal Court would have to, under  
19 Article 9, apply Jersey law to those points. But if one was  
20 dealing with, for example, a contractual (indiscernible)  
21 where the law governing the contract is law (indiscernible),  
22 then that law will clearly be applied by the Jersey court in  
23 relation to the dispute.

24 Q So if --

25 THE COURT: Can I interrupt here. Some strong

1 background noise. It just stopped.

2 MAN 1: Yeah, it's -- Your Honor.

3 THE COURT: I'm sorry to interrupt. I think it  
4 did just stop so --

5 MAN 1: Your Honor, (indiscernible) mute. There  
6 we go. Thank you, sir.

7 THE COURT: Okay. Sorry to interrupt you all, but  
8 I think we did get that answer out, and I think everyone  
9 heard it.

10 You can go on, Ms. Monaghan.

11 BY MS. MONAGHAN:

12 Q If there were a claim for fraudulent transfer, would  
13 the Jersey court apply Jersey law as to the question of  
14 whether the transfer was fraudulent, or would it apply  
15 foreign law to that question?

16 A Sorry. A fraudulent transfer into a trust?

17 Q Yes. I'm sorry. I should have specified. A  
18 fraudulent transfer into a trust with either a Jersey  
19 trustee or governed by Jersey law.

20 A Well, the -- again, under Article 9 -- and the  
21 provision is clear -- it says that any question concerning  
22 the validity or effect of any transfer or other disposition  
23 property to a trust shall be determined according to the law  
24 of Jersey.

25 Q And then if there were a foreign judgment against the

1 beneficiary of a Jersey trust, and the foreign judgment  
2 creditor was attempting to enforce that judgment against the  
3 Jersey trust, would the Jersey Royal Court apply Jersey law  
4 or foreign law to that question?

5 A The question of the enforcement of a judgment against a  
6 beneficiary will be determined according to Jersey law  
7 principles in relation to enforcement. That's the question?

8 Q That is the question, whether the trust assets would be  
9 available to respond to a judgment against the beneficiary.

10 A The -- whether the trust assets would be available  
11 would be determined in accordance with Jersey law. That's  
12 correct.

13 MS. MONAGHAN: Thank you. No further questions,  
14 Mr. Cushing.

15 THE COURT: Okay. Is there any -- are there any  
16 further questions on recross?

17 All right. Mr. Cushing, you can sign off. Your  
18 testimony is complete. Thank you.

19 THE WITNESS: I'm very grateful, sir. Thank you.

20 THE COURT: All right. The next witness is, as I  
21 understand it, Scott Bickford, being presented by the NAS  
22 Committee. And I see Mr. Bickford there.

23 Would you raise your right hand, please? Do you  
24 swear or affirm to tell the truth, the whole truth, and  
25 nothing but the truth so help you God?

1 THE WITNESS: I do, Your Honor.

2 THE COURT: Okay. And it's Scott, S-C-O-T-T B-I-  
3 C-K-F-O-R-D?

4 THE WITNESS: That's correct, Your Honor.

5 THE COURT: Mr. Bickford, you submitted a  
6 declaration in support of the Ad Hoc committee of NAS  
7 Children's reply to the United States Trustee's objection.  
8 It's dated August 5, 2021. Under my order establishing  
9 procedures for this hearing, it's intended to be your direct  
10 testimony in the hearing. Knowing that and sitting there  
11 today, August 17th, is there anything in your declaration  
12 that you would wish to change?

13 THE WITNESS: No, Your Honor.

14 THE COURT: Okay. All right. Does anyone object  
15 to the admission of Mr. Bickford's declaration as his direct  
16 testimony?

17 All right. Does anyone want to cross examine Mr.  
18 Bickford on his declaration?

19 All right. I'm pausing because at times, Mr.  
20 Higgins has taken a little while to sign on. I just want to  
21 make sure.

22 MR. HIGGINS: Your Honor, Ben Higgins for the  
23 U.S. Trustee. We don't intend any cross examination. Thank  
24 you for checking.

25 THE COURT: All right. Very well. All right.

1 And no one else wants to cross examine Mr. Bickford either.

2 I have reviewed the declaration, and I don't have  
3 any questions on it. It seems clear to me, so you can sign  
4 off, sir.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: Okay. All right. The next witness is  
7 being called by the State of West Virginia, Dr. Charles  
8 Cowan. As I understand it, he's a PhD doctor, which is no  
9 slight to PhDs. So Mr. Cahn, is he signing on? Are you  
10 getting him on the line?

11 MR. CAHN: We asked him to sign on, Your Honor.  
12 He should be on momentarily.

13 THE COURT: Okay. Thank you.

14 MAN 2: Hi, how are you? Good to see you. I just  
15 wanted to say --

16 THE COURT: No. Whoever is talking, you need to  
17 put yourself on mute.

18 Is he signing on?

19 MAN 1: Your Honor, we're just waiting for Mr.  
20 Cowan to sign on.

21 THE COURT: Okay. Mr. Cahn, if he's having  
22 difficulties, he should contact Mr. Andino, who's been able  
23 to walk people through the process.

24 MR. CAHN: Yes, Your Honor. I'm not sure what the  
25 problem is, but we've been in contact -- we're contacting

1 him to see if there's a problem.

2 THE COURT: If he indicates there is, he should --  
3 you should ask him to e-mail Mr. Andino to walk him through.

4 MR. WAGNER: Your Honor -- Your Honor, while we're  
5 waiting, I just want to make sure Your Honor has the  
6 exhibits as well as the deposition transcript.

7 THE COURT: I have the exhibits. I don't know --  
8 yes. I have the deposition transcript too.

9 MR. WAGNER: Okay. And I think the only exhibits  
10 I'm going to be using are 388, 389, and 392, as well as the  
11 transcript.

12 THE COURT: All right.

13 MR. WAGNER: Aaron, maybe you should e-mail him  
14 and text him.

15 MR. CAHN: I have. He's (indiscernible) tried to  
16 call. I don't know what the problem is. I know that he  
17 tested the link earlier this morning and had no problem.  
18 He's been in contact with me throughout the day. I know  
19 that he is physically located on the Florida Gulf Coast,  
20 which is having some weather issues. I don't know if that's  
21 a factor or not.

22 MR. WAGNER: Why don't we wait a few minutes?

23 THE COURT: Okay. I know our clerk's office has  
24 tried to reach him, but it just goes to voicemail, so --

25 MR. WAGNER: Does he have a landline?

1 MR. CAHN: I don't know if he does or not. He  
2 literally just (indiscernible) over this past weekend.

3 THE COURT: Well, maybe it makes sense --

4 MR. CAHN: So I don't know.

5 THE COURT: -- to go to the next witness and then  
6 come back to Mr. Cowan if -- I know that it's a different  
7 party that's presenting the next witness, which is Mr. -- I  
8 think it's Hrycay.

9 MR. WAGNER: Yeah. Maybe wait another couple  
10 minutes, and then --

11 THE COURT: All right.

12 MR. GOLD: Your Honor, Matthew Gold here from  
13 Kleinberg Kaplan simply to advise the Court that Mr. Hrycay  
14 is here and ready to go at any point --

15 THE COURT: Okay.

16 MR. GOLD: -- without technological problem if  
17 we're ready, if that's where we go.

18 THE COURT: That's fine. Thanks for that, and I'm  
19 sorry I mispronounced his name.

20 MR. GOLD: You're hardly alone, Your Honor.

21 THE COURT: Okay.

22 MR. CAHN: Your Honor, if you want to proceed with  
23 the next witness (indiscernible) intended to be.

24 THE COURT: Well, I think we should do that. I  
25 think we will get to Mr. Cowan, unless he's, you know, in a

1 blackout or something, but why don't we proceed with Mr.  
2 Hrycay, and that's spelled H-R-Y-C-A-Y.

3 MR. CAHN: Very well, Your Honor. I apologize. I  
4 really don't know what happened.

5 THE COURT: That's fine.

6 MR. CAHN: As I say, we've been --

7 THE COURT: That's fine.

8 So Mr. Gold, can you set up for Mr. Hrycay?

9 MR. POPOFSKY: Yes, Your Honor. This is Steven  
10 Potoski. I'll be handling this witness --

11 THE COURT: Okay.

12 MR. POPOFSKY: -- in lieu of Mr. Gold. Good  
13 afternoon.

14 THE COURT: Good afternoon. Now, as with the last  
15 witness, I'm aware that there is a -- or at least there was  
16 a motion to exclude Mr. Hrycay's testimony. I don't know if  
17 that's still being pursued.

18 MS. MONAGHAN: No, Your Honor. This is Maura  
19 Monaghan. We have withdrawn the motion pursuant to  
20 stipulations.

21 THE COURT: Okay. And does that -- I'm not aware  
22 of the specific stipulation. Does it need to be laid out on  
23 the record so I know what to consider and what not to  
24 consider?

25 MS. MONAGHAN: I'm happy to put it in the record.



1 I believe it had been submitted to the Court as part of the  
2 agreement with respect to the relative exhibits that came as  
3 a result of the disposition of the dispute over Mr. Joseph's  
4 declaration.

5 THE COURT: Okay. So it's that stipulation.

6 MS. MONAGHAN: Yeah. It's contained in that  
7 stipulation.

8 THE COURT: Very well. All right. Okay. So Mr.  
9 Hrycay -- and I am pronouncing it correctly now?

10 MR. HRYCAY: Hrycay, yes.

11 THE COURT: Hrycay. Okay. So Mr. Hrycay, would  
12 you raise your right hand, please? Do you swear or affirm  
13 to tell the truth, the whole truth, and nothing but the  
14 truth so help you God?

15 THE WITNESS: I do.

16 THE COURT: Okay. Mr. Hrycay, you submitted an  
17 expert report dated June 15, 2021. Under my order  
18 establishing procedures for this hearing, it's intended to  
19 be your direct expert testimony. Sitting here today on  
20 August 17th, 2021, is there anything in it that you wish to  
21 change?

22 THE WITNESS: No, sir. A little bit of time has  
23 passed. A few facts have changed, but my report stands.

24 THE COURT: Okay. And again, just for the court  
25 reporter, it's H-R-Y-C-A-Y. That's correct?

1 THE WITNESS: Yes, sir.

2 THE COURT: Okay. All right. Does any -- well, I  
3 gather that there -- that the objection by the Side A  
4 Sackler family to the admission of Mr. Hrycay's report is  
5 withdrawn as per the stipulation. Does anyone else object  
6 to the admission of his expert report as his direct  
7 testimony?

8 Okay. I -- it's admitted then. Does anyone want  
9 to cross examine Mr. Hrycay?

10 MR. JOSEPH: Yes, Your Honor. Gregory Joseph for  
11 the Raymond Sackler family.

12 THE COURT: Okay. All right. You can go ahead.

13 MR. JOSEPH: Thank you.

14 CROSS EXAMINATION OF WILLIAM HRYCAY

15 BY MR. JOSEPH:

16 Q Mr. Hrycay -- and it is Mr. Hrycay, correct? You don't  
17 have a doctorate in economics or any other discipline,  
18 correct?

19 A That's correct, sir.

20 Q You have a BA in economics?

21 A I have a BA in economics. I have --

22 Q And you have an MBA as well, correct?

23 A That is correct.

24 Q So is it -- is it your position that any one of the  
25 tens or hundreds of thousands of people that have an MBA are

1 qualified to give the opinion that you gave in this case?

2 A My opinion is based upon --

3 Q That's a yes or no. Is it your position that an MBA in  
4 itself is sufficient qualification to give the opinion  
5 you've given in this case?

6 A Not necessarily, no.

7 Q So there's something about your background which  
8 qualifies you to give this opinion, correct?

9 A I believe so.

10 Q And it's not that you've ever worked as a professional  
11 wealth manager, correct?

12 A I have not worked as a professional wealth manager.  
13 No, sir.

14 Q And it's not that you have any experience in managing  
15 investment portfolios, correct?

16 A That's correct.

17 Q You have your report in front of you?

18 A I will. One moment. I do, sir. Thank you.

19 Q Sure. If you would turn to your CV, which is Exhibit  
20 2.

21 A Yes, sir.

22 Q The first sentence under your name says Mr. Hrycay is  
23 an associate director in NERA's Securities and Finance  
24 Practice. So you're an associate director. You're not a  
25 director, correct?

1 A Correct.

2 Q You're not a managing director either.

3 A No, sir.

4 Q And then the next sentence says, "He specializes in  
5 expert analysis relevant to securities litigation." Do you  
6 see that?

7 A Yes, sir.

8 Q Judge Furman doesn't consider you an expert in  
9 securities litigation analysis, does he?

10 A Judge Furman admitted my testimony as expert testimony.

11 Q And then he rejected it.

12 A He had criticism of it, sir. Yes.

13 Q He rejected it; did he not?

14 A He rejected the conclusions I had. Correct.

15 Q In fact, the only other case in which you've testified  
16 as an expert is the Atlantica Securities case in front of  
17 Judge Furman last year, correct?

18 A It was two years ago, but otherwise correct. Yes.

19 Q And you testified for the plaintiff on loss causation,  
20 right?

21 A Loss causation and damages, sir.

22 Q But he rejected your opinion on loss causation because  
23 you did not disaggregate losses caused by non-fraud factors,  
24 right?

25 A That was his opinion. Yes, sir.

1 Q And he also held that you didn't even try to identify  
2 or calculate losses from other factors, correct?

3 A That was his opinion. Yes, sir.

4 Q So basically, he said you failed to account for  
5 multiple variables that could've caused the loss, right?

6 A I -- yes. I believe that's what that means.

7 Q All right. So I'm -- now, in this case, I'm going to  
8 focus on your work here concerning the Raymond Sackler  
9 family. I believe Ms. Monaghan may have some questions  
10 relating to the Mortimer Sackler family. So do you have  
11 that in mind?

12 A I will try to bear that in mind. Thank you.

13 Q All right. Please turn to page 16 -- excuse me -- Page  
14 9, Paragraph 16 of your report.

15 A Yes, sir.

16 Q And one thing you did as part of your assignment in  
17 this case was to take the net asset statement of the Raymond  
18 Sackler family as of September 30, 2020 and estimate what  
19 those assets would be six months later, as of March 31,  
20 2021, correct?

21 A That's correct.

22 Q And if we look at Page 13 and Exhibit 6 of your report,  
23 you estimated -- and I'm looking at the third column from  
24 the right, which says "value as of 9-30-2020" at the bottom.  
25 It says the value, and this was a Huron reported value,

1 correct, the \$5,871,500,000?

2 A That's correct.

3 Q All right. You estimated that that 5.871 billion would  
4 in six months, if we look over on the far right-hand side,  
5 grow to 6.544 billion, correct?

6 A Yes, sir.

7 Q So that's about a \$600 million increase in six months  
8 that you projected.

9 A Approximately, yes.

10 Q And after you submitted your report, Huron prepared a  
11 net asset report showing the value of Side B's assets, the  
12 Raymond Sackler family, as of March 31, 2021, correct?

13 A Yes, it did.

14 MR. JOSEPH: And Mr. Popofsky, could you please  
15 put Exhibit 1922 in front of the witness? That is one of  
16 the reports that we identified for you.

17 THE COURT: Do you have a tab number, Mr. Joseph,  
18 in your booklet?

19 MR. JOSEPH: That, I don't. I just have an  
20 exhibit.

21 THE WITNESS: I got it.

22 THE COURT: I think it's Tab 4. At least, it's  
23 Tab 4 in my book.

24 THE WITNESS: Tab 6. 1922?

25 THE COURT: All right, well, you're under

1 different tabs; 1922 is my Tab 4, but I guess you found it.

2 THE WITNESS: Okay, yes --

3 MR. JOSEPH: Your Honor, the reason for the  
4 difference is the Side A had already submitted some of the  
5 reports to you and we were asked by your clerk not to  
6 duplicate.

7 THE COURT: Okay, that's fine.

8 MR. JOSEPH: Okay.

9 BY MR. JOSEPH:

10 Q So do you have Exhibit 1922?

11 A This is the Raymond side asset report as of March 31st,  
12 2021.

13 Q Right. Now this is the same date as of which you  
14 projected that Raymond side assets would be \$6.544 billion  
15 in your report, correct?

16 A That's correct.

17 Q And if you turn to Slide 8 of Exhibit 1922.

18 A Slide 8, yes, sir.

19 Q All right. That report shows how much the net assets  
20 of the Raymond Sackler family grew in that six-month period,  
21 correct?

22 A It includes an estimate that -- with the assumption  
23 that the IACs are constant, but yes, it says it grew by  
24 \$93.5 million.

25 Q \$93.5 million, not \$600 billion, correct?

1 A Correct. This, again, is --

2 Q (sound drops) very much. You've answered my question.

3 MR. POPOFSKY: Your Honor --

4 MR. JOSEPH: That's --

5 MR. POPOFSKY: Your Honor, I'd ask that Mr. Joseph  
6 not cut off the witness. The witness is not keeping his  
7 voice as much as, perhaps, he could, but he is being cut  
8 off.

9 MR. JOSEPH: I only (sound drops) answers to my  
10 questions, Your Honor. That's all I'm trying to do and not  
11 have extraneous testimony.

12 THE COURT: Okay, well, Mr. Joseph, just wait  
13 until the answer is all the way out, though.

14 MR. JOSEPH: All right, thank you, (sound drops).

15 BY MR. JOSEPH:

16 Q So in that six-month period of the about \$600 million,  
17 you were off by about \$250 million in marketable securities  
18 and hedge funds, right?

19 A And of that amount, I would note that approximately --

20 Q Answer yes or now.

21 A I --

22 MR. POPOFSKY: Your Honor, I would ask again that  
23 witness not be cut off.

24 THE COURT: Well, no, it was a yes or no question.

25 BY MR. JOSEPH:



1 A The aggregate balance difference is approximately off  
2 by the amount you stated, yes, sir.

3 Q A quarter billion dollars.

4 A Yes, sir.

5 Q Okay. And it was a quarter billion lower than you  
6 projected for that six-month period?

7 A That's correct.

8 Q So you would agree with me, would you not, that in  
9 trying to project investment returns, the longer into the  
10 future that you forecast, the more difficult it is to  
11 predict the outcome, correct?

12 A I would say that the longer -- over the longer the time  
13 period is, the more variability there will be around any  
14 sort of mean estimate. That's correct.

15 Q Okay. So, once you took the assets to 2021 at this  
16 \$600 million higher number, you then projected it out for  
17 another nine years, correct?

18 A That's correct, sir.

19 Q And you did that by applying growth rates to various  
20 asset categories and accounting for settlement payments,  
21 correct?

22 A Yes, sir.

23 Q And you pulled the growth rates from BlackRock's  
24 publicly available website, correct?

25 A Yes, sir.

1 Q And you tried to match the categories on the publicly  
2 available website to the categories in the Huron net asset  
3 report, correct?

4 A Yes, sir.

5 Q And that's really a function of multiplication, right,  
6 of the asset categories by the growth rates over that  
7 period. Is that fair?

8 A Once you understand the growth rate or have an estimate  
9 for the growth rate, obtaining the net asset value every  
10 year is multiplication. Yes, sir.

11 Q And you didn't actually have information or even access  
12 to information showing what the portfolio holdings were on  
13 an asset-by-asset basis, right?

14 A No, I did not have the individual asset holdings.

15 Q And you had general categories, correct?

16 A Sorry, I -- the audio failed a little bit.

17 Q I'm sorry -- did you hear my question?

18 MR. POPOFSKY: NO, he did not hear -- we did not  
19 hear the question.

20 MR. JOSEPH: Okay.

21 BY MR. JOSEPH:

22 Q All you had were general asset categories. You didn't  
23 have an asset-by-asset breakdown, correct?

24 A That's correct. Huron report reported in these general  
25 asset categories.

1 Q So now, to estimate the return on marketable securities  
2 and hedge funds, you assumed a 60/40 weighting, an average  
3 return on the largest, on U.S. large cap equities, correct,  
4 and aggregate U.S. bonds? It's -- if you want to look at  
5 your report, it's Exhibit 8 on Page 16.

6 A Thank you.

7 Q The third item down under assets, it says, "Marketable  
8 securities and hedge funds, 60/40 U.S. large cap equities  
9 and U.S. aggregate bonds."

10 A Yes, sir.

11 Q And you have no idea whether the marketable securities  
12 and hedge funds were actually at a 60/40 weighting, correct?

13 A No, I don't know whether there was a 60/40 weighting  
14 between equities and bonds in this asset class.

15 Q Weighting could be significantly different than you  
16 assume, right?

17 A It could be.

18 Q And if the weighting were debt heavy, that would lower  
19 the expected returns, would it not?

20 A If there were more than 40 percent debt, that would  
21 reduce the expected return. Yes, sir.

22 Q And you did no sensitivity analysis to determine how  
23 rates of returns would change based on different assumptions  
24 of asset composition, did you?

25 A No, sir. I reported a midpoint asset.

1 Q I'm sorry?

2 A I reported a midpoint asset of expected returns.

3 MR. POPOFSKY: Yeah, if you could keep your voice  
4 up a little bit.

5 THE WITNESS: I will try.

6 MR. JOSEPH: That's fine. We're all dealing with  
7 technical issues. At least Mr. Hrycay was able to sign on,  
8 so we're doing well.

9 BY MR. JOSEPH:

10 Q In projecting the Raymond Sackler family's assets,  
11 you've assumed that the asset allocation would remain static  
12 over nine years, correct?

13 A Yes, sir.

14 Q And you know, from the six-month report from Huron,  
15 that that's not what's happening, correct?

16 A I know that there were some changes to asset categories  
17 from September 30th to March 31st, yes.

18 Q Let's take a look at Page 9 of your report, Exhibit 4.  
19 That sets out Side B's assets as of September 30, 2020,  
20 correct? Under assets, it says cash and cash equivalents,  
21 \$444 million.

22 A Yes, sir.

23 Q Now, if you look at Exhibit 1922, which is the updated  
24 report that I think you also have in front of you now, and  
25 turn to Slide 10 of that.

1 A Slide 10. Yes, sir.

2 Q All right. If you take a look at Bullet 3, it says the  
3 estimated value of cash and cash equivalents as of March 31,  
4 2021 total \$682 million or \$237.3 million more than the  
5 value presented in the updated net asset report. You see  
6 that?

7 A Yes, sir.

8 Q So instead of remaining static, it increased by about a  
9 third, right?

10 A Yes, sir.

11 Q And the reason it went up by that amount was because of  
12 redemption from private equity funds, right?

13 A That's what it says. Yes, sir.

14 Q Okay. So, the same bullet point, so you know that, and  
15 that was perfectly predictable that private equity funds or  
16 hedge funds are going to be redeeming over time, correct?

17 A I don't know whether that's predictable or not, sir.

18 Q Is it your understanding with private equity funds, the  
19 money stays in there forever?

20 A No. My understanding is that private equity funds will  
21 redeem at some point. It's not predictable when or whether  
22 they will be reinvested.

23 Q But you took the assumption that everything would  
24 remain the same for nine years, correct?

25 A Yes, sir.

1 Q And you did no sensitivity analysis to determine  
2 changes in asset allocation because redemptions or anything  
3 else would affect asset growth through 2030, correct?

4 A No, sir.

5 Q It -- no, you didn't, and that is correct?

6 A I did not make any sensitivity analysis around asset  
7 allocation.

8 Q And that's because you had no idea how the Sacklers  
9 would change their assets over nine years, correct?

10 A Essentially, yes, but it was -- the simplest assumption  
11 was to assume that the asset allocation would remain  
12 basically the same as it was as of the two points for which  
13 I had their information on their portfolio.

14 Q Now, to calculate the future value of the IACs for the  
15 Raymond Sackler family, you assumed they were worth \$4.5  
16 billion as of September 30, 2020, correct?

17 A No, that's not quite correct, sir.

18 Q All right. Would you take a look -- do you have your  
19 deposition in front of you?

20 A (indiscernible).

21 Q You remember when your deposition was taken by Mr. Lees  
22 of Milbank?

23 A Yes, I do. I remember the deposition.

24 Q That was July 29th. You were sworn to tell the truth,  
25 correct?

1 A That's correct, sir.

2 Q And you did tell the truth, correct?

3 A As best I could. Yes, sir.

4 Q Okay. If you turn to Page 98, Line 5. Do you have  
5 that in front of you?

6 A Page 98, you said?

7 Q Yes, Page 98, Line 5. Are you there?

8 A Yes, sir.

9 Q And the question was, "Just to clarify, your report  
10 assumed that the IACs were worth four-and-a-half billion  
11 dollars as of June 15, 2020 -- sorry, '21." Answer: "No,  
12 it assumed they were worth \$4.5 billion as of the dates of  
13 the statements." Those are the Huron statements, correct?

14 A I don't -- yes, if you look right above that, I stated  
15 that there was further discussion. We assumed that the  
16 point in the future that the IACs would achieve \$4.5  
17 billion.

18 Q What --

19 A (indiscernible).

20 Q -- future value --

21 A (indiscernible), sir.

22 Q Okay. Well, let's go, then, Page 172, Line 25 of your  
23 transcript.

24 A Page 27?

25 Q Page 172.

1 A One, seven, two. Thank you.

2 Q Sure. And see Line 25 there?

3 A Yes, sir.

4 Q And you said, "I assumed the IACs were worth \$4.5  
5 billion as of September 30, 2020." You testified to that,  
6 correct?

7 A Yes, sir. I've also stated in other parts of the  
8 transcript that I assumed that the estimate was performed as  
9 of September 2019 and that I'm growing it based on the  
10 change in information between those two dates.

11 Q Well, that value didn't --

12 A And I apologize if I misspoke in this particular  
13 segment.

14 Q I see. In fact, you grew the \$4.5 billion from  
15 September 2020 through 2027, correct?

16 A Correct, sir.

17 Q And to calculate the growth, you applied a 7.4 percent  
18 annual growth rate, correct --

19 THE COURT: Can you mute, Mr. Rothstein, please?

20 Is he muted? Okay. Sorry, Mr. Joseph. Go ahead.

21 MR. JOSEPH: No, Your Honor.

22 BY MR. JOSEPH:

23 Q To calculate the growth, you took \$4.5 billion as of  
24 September 2020 and you applied a 7.4 percent annual return  
25 rate, correct?



1 A Correct. Right -- sorry, I need to qualify that. I  
2 grew it at different rate from 20 -- from the original date  
3 of the Huron report to March 2021, and then grew it at, I  
4 think, the 7.4 percent growth rate, commensurate with  
5 (indiscernible) U.S. equities.

6 Q Okay, from -- thank you. So, from September -- from  
7 2021 to 2030, you grew it by 7.4 percent per year?

8 A March 31st, 2021. I think you said September.

9 MR. POPOFSKY: Objection. Not to 2030.

10 MR. JOSEPH: Thank you for the correct.

11 BY MR. JOSEPH:

12 Q Your assumption that the IACs were worth \$4.5 billion  
13 as of September 2020 was not based on any independent  
14 valuation of the IACs, correct?

15 A My assumption of the value, that there was an estimate  
16 that the -- as of 2019, there was an estimate that the IACs  
17 would be sold for \$4.5 billion at that time. It was not  
18 based on my independent assessment. No, sir.

19 Q At that time or in the future?

20 A The estimate existed as of 2019 and it estimated that  
21 the sales would occur in the future.

22 Q All right, so you took a value as of 2019 or 2020 which  
23 was stated to be a future sale value, and you grew it from  
24 2019 and 2020, correct?

25 A Yes, and I did --

1 Q And --

2 A (indiscernible).

3 Q Sorry?

4 A Yes, because of the change in market conditions.

5 Q The Raymond side net asset report, take a look at  
6 Exhibit 479. Now, that's the net asset report date March  
7 (indiscernible) 2021.

8 MR. POPOFSKY: If you gave us tab numbers based on  
9 what you sent, it would move it quicker. We can find  
10 anything otherwise, but --

11 MR. JOSEPH: Sure.

12 MR. POPOFSKY: (indiscernible) slow down.

13 MR. JOSEPH: All right. For you, it's Tab 2.  
14 Your Honor, I don't have the shorter version --

15 THE COURT: That's fine. I have it.

16 MR. JOSEPH: Okay.

17 MR. POPOFSKY: To take this book (indiscernible).  
18 See if you can do better with the numbers.

19 BY MR. JOSEPH:

20 Q Do you have it in front of you, sir?

21 A And what page?

22 Q Go to Slide 21, please.

23 A I'm there.

24 Q All right, the top bullet says, "The IACs have retained  
25 an investment banker to market the businesses for sale. The

1 value of the IACs is currently carried on the balance sheets  
2 at their book values. No fair market valuation for the IACs  
3 currently exists. An independent fair market value of the  
4 IACs is outside the scope of this updated net asset report."

5 So, you knew that Huron was saying there was no fair market  
6 value for the IACs, as of the date of the report, which was  
7 the 2020 value that you grew at 7.4 percent per year,  
8 correct?

9 A I understand that the Huron report said there's no fair  
10 market valuation for the IACs currently.

11 Q And if you look at the next bullet, it says, "For  
12 purpose of this updated net asset report and to illustrate  
13 how the proceeds from the sale of the IACs might potentially  
14 flow to the individual initial covered Sackler persons, a  
15 hypothetical growth sale value for all of the IACs of \$4.5  
16 billion," and it defines that as the hypothetical IAC value  
17 was chosen and the value was allocated among the IACs,  
18 correct?

19 A You read that correctly. Yes, sir.

20 Q And the hypothetical value for the future sale is the  
21 one that you grew at 7.4 percent per year, correct?

22 A That's correct, sir, yes.

23 Q And it also said in the next bullet that the  
24 hypothetical IAC value as of September 20 -- or September  
25 30, 2020, and the allocation of value is unchanged from the

1 January 15, 2020 net asset report. So, you knew that Huron  
2 wasn't growing that value, the future sale value, correct?

3 A That's what it says, yes.

4 Q You have no reason to dispute that.

5 A I have no reason to dispute that's what they said.

6 Q Well, in fact, if you look at their prior -- I'm sorry,  
7 did I cut you off?

8 A If that's what you mean by "that," that they said that,  
9 yes.

10 Q In fact, if you go back to -- pull up Exhibit 1916,  
11 which in your (indiscernible) is Tab 5 --

12 A Yes, sir.

13 Q And you go to Slide 13.

14 A Yes, sir.

15 Q The top bullets say pretty much the same as they said  
16 in 2020, which is, there is no fair market valuation and  
17 this is a hypothetical IAC value, correct? (indiscernible)  
18 into the record, if you like --

19 A Yes.

20 Q It's no --

21 A That's says -- it says the same thing.

22 Q Okay. And you understood that this value, this  
23 hypothetical value was a future value based on a future sale  
24 at some point of the IACs?

25 A I understood that. Yes, sir.

1 Q So knowing that the \$4.5 billion hypothetical value was  
2 a future value, you grew it as if it were a present fair  
3 market value throughout the period, correct?

4 A I grew -- yes, as if people would respond to the change  
5 in market information by changing prices. Yes, sir.

6 Q You never asked the parties that retained you what due  
7 diligence was being done on the IACs, did you?

8 A Not specifically, no, sir.

9 Q Did you ask them generally?

10 A I asked them for best information available on the  
11 IACs.

12 Q You don't know whether, based on the due diligence  
13 that's been done on the IACs, they believe the IACs would be  
14 worth \$4.5 billion when they're sold in the future, correct?

15 A I have not seen any specific other valuations of the  
16 IACs. No, sir.

17 Q And you haven't asked the states that retained you?  
18 There were 25 states that originally retained you, correct?

19 A I asked for valuation information.

20 Q I see. And you weren't provided it, but you didn't ask  
21 for due diligence information?

22 MR. POPOFSKY: Objection. Compound question.

23 THE COURT: Sustained.

24 MR. JOSEPH: I'll ask it -- that's fair.

25 BY MR. JOSEPH:

1 Q You didn't ask for due diligence information on the  
2 IACs to assist you in your valuation, correct?

3 A I did not ask for due diligence information. No, sir.

4 Q The IACs are the largest asset category in your  
5 estimate for the Raymond Sackler family's assets as of 2030,  
6 correct?

7 A I believe that's correct. Yes, sir.

8 Q And of all the growth rates that you applied to any  
9 asset category, you used the largest growth rate for that  
10 asset category, correct?

11 A That is correct.

12 Q And you did no sensitivity analysis to determine how  
13 the Sacklers' net worth in 2030 would change based on  
14 different possible outcomes on the sale of the IACs,  
15 correct?

16 A I did not do a sensitivity analysis on that. no, sir.

17 Q Now, you know that -- I'm going to call them Side A and  
18 Side B. Are you familiar with that terminology?

19 A Yes, sir.

20 Q Even though the Side A and Side B each own 50 percent  
21 of the IACs, correct?

22 A That's my understanding. Yes, sir.

23 Q But your valuation of the IACs for Side A is higher  
24 than your valuation of the IACs for Side B in 2030, correct?

25 A Yes, sir.

1 Q And one reason for that, one reason for that is that  
2 you apply your growth rate to the hypothetical \$4.5 billion  
3 starting in 2019 for Side A but only in 2020 did you start  
4 it for Side B, correct?

5 A That is correct. Yes, sir.

6 Q But in fact, you had a 2019 \$4.5 billion valuation for  
7 Side B also, didn't you? You saw it hadn't changed by 2021  
8 -- or by 2019.

9 A I saw it had not changed. That's correct. Yes, sir.

10 Q Okay, so you grew it on Side A and you didn't grow it  
11 on Side B, right?

12 A Yes, sir.

13 Q For that year. Okay. Now, there's another reason why  
14 these values are different. Isn't it true you omitted about  
15 \$300 million in IAC value owned by Side B?

16 A I don't believe I did.

17 Q You didn't. Okay, well, let's take a look at the --  
18 excuse me -- Exhibits 3 and 4 of your report. Turn to  
19 Exhibit 3 first, please, on Page 8, the last row under  
20 assets.

21 A Yes, sir.

22 Q So that shows the starting value of the IACs on the  
23 Mortimer side is \$2.248 billion, correct?

24 A Correct, sir.

25 Q Now, then, look at the next page, Exhibit 4, the fourth

1 row under assets. It shows the starting value of the IACs  
2 on the Raymond side is \$1.9 billion, correct?

3 A Yes, sir.

4 Q Even though you know they both own 50 percent, correct?

5 A I believe these are the numbers from the Huron reports.

6 Q But did you capture all of the numbers in the Huron  
7 report? You're missing about \$313 million, correct?

8 A There's a \$300 million difference between these  
9 numbers.

10 Q All right. Do you have Exhibit 1916 in front of you?  
11 That's Tab 5. We were just talking about it.

12 A Yes, sir.

13 Q Go to 15 -- slide 15.

14 A Yes, sir.

15 Q The third bullet point, the one that says, "Because the  
16 Raymond and Mortimer sides of the Sackler family each  
17 directly or indirectly own 50 percent." Are you with me  
18 there?

19 A Yes, sir.

20 Q Then the first bullet says, "The \$4.5 million  
21 hypothetical value," -- (indiscernible) million of the total  
22 value are owned equally by the Raymond and the Mortimer  
23 sides of the family, correct?

24 A Yes, sir.

25 Q And the number you have for the Mortimer side is half



1 of that, correct, the \$2.248 million?

2 A Yes, sir.

3 Q But the \$1.934 billion you have for the Raymond side is  
4 not half of that, right?

5 A Yes, sir.

6 Q And if you look at the next sub-bullet point on Exhibit  
7 1916, it says, "\$1.934 million of the Raymond side's  
8 interest is held by initial covered (sound drops) persons  
9 and the remaining \$313 million is held by non-initial  
10 covered Sackler persons." That is the difference that you  
11 missed, correct?

12 A That appears correct.

13 Q Okay. Let's go to the BlackRock data that you used to  
14 grow these various asset categories. You pulled that off a  
15 public website, right?

16 A Yes, sir.

17 Q You haven't worked at BlackRock, right?

18 A No, sir.

19 Q You weren't involved in devising the methodology that  
20 underlies that website growth rate set that they've got up  
21 there, correct?

22 A No, sir.

23 Q And you don't have access to that methodology to check,  
24 right?

25 A They describe the methodology they use, but not the

1 exact calculations.

2 Q You don't have access to the model or its algorithms  
3 that go into forming the return figures, right?

4 A No, I don't have BlackRock's proprietary models.

5 Q So if you were asked to recreate the asset returns that  
6 BlackRock did, you couldn't do them?

7 A No, sir.

8 Q And you have no way to test the model that BlackRock  
9 used to see if its assumptions and calculations were proper,  
10 right?

11 A I can evaluate the discussion they have on their  
12 website about how they -- their methodology and some of the  
13 assumptions they used and evaluate it relative to general  
14 principles of corporate (indiscernible), yields in the  
15 market. So, there are ways to test the (indiscernible) of  
16 it.

17 Q What's the yield in the market in the year 2027?

18 A Well --

19 Q You don't know that, because it hasn't happened yet,  
20 right?

21 A Correct. I --

22 Q There's no way to know whether the plan --

23 MR. POPOFSKY: Objection (indiscernible).

24 BY MR. JOSEPH:

25 Q Please, continue.

1 A I can compare it to what yields (indiscernible) yields  
2 are now, and so if someone is invested in a ten-year bond,  
3 that's the -- effectively, they're very similar to the yield  
4 they're going to receive over the next ten years.

5 Q I see. So, if you'd done this in 2006 and projected up  
6 for nine years, how would your -- and you relied on  
7 something like the BlackRock growth rates, how would that  
8 projection have come out?

9 A In 2006?

10 Q Yeah, two years before the meltdown. How would that  
11 have worked? You have no idea what's happening in the  
12 future, right?

13 A No, I don't know what's happening in the future. The  
14 markets went down during that time, then they rebounded  
15 during that time. So, in ten years, I don't know if they  
16 would've been a net up or down from the 2006 projection.

17 Q You said you read what BlackRock said about its growth  
18 rates. You actually misused the BlackRock data based on  
19 what BlackRock said, right?

20 A No.

21 Q I'm going to ask you to look at Exhibit 2548, which is  
22 Tab 9 in your binder. It is Exhibit 9 at your deposition.

23 A Yes.

24 Q Do you remember -- right now, do you recognize this --

25 A Yes

1 Q -- as BlackRock website data that you reviewed when you  
2 took those values?

3 A Yes, sir.

4 Q Okay. I want to direct your attention to the bolded  
5 text at the bottom of the first page. Are you with me?

6 A I see what you're -- I see the bolded text. Yes, sir.

7 Q And it says, "This information is not intended as a  
8 recommendation to invest in any particular asset class or a  
9 strategy or as a promise or even estimate of future  
10 performance." You saw that, correct?

11 A I did see that, yes.

12 Q And then you used the BlackRock data to estimate future  
13 performance, correct?

14 A Yes, and I've also seen things like the table right  
15 above it, which says, "Asset return expectations," and the  
16 bottom of the X axis of that same graph which says,  
17 "Expected annualized return." And then, I saw things two  
18 pages later, Page 5 of 8, which says that what they're  
19 providing is return expectations, geometric, arithmetic. I  
20 also downloaded the data. When you download the data in  
21 cell form, it labels the column headers as expected returns.  
22 So yes, I did see --

23 Q (indiscernible).

24 A -- where they expressed concern that they don't want  
25 people to take these as recommendations, but I've also seen

1 that BlackRock published that these were fair estimates of  
2 market expectations and provided that information to the  
3 investing public.

4 Q So you disregarded, based on your review of the  
5 website, the warning on the website that the information was  
6 not an estimate of future performance and not to be used for  
7 that. Is that right?

8 A It doesn't say that it's not to be used as an estimate  
9 of future performance. It just says that in the context of  
10 stating that they're not making recommendation or a promise  
11 about future asset performance, that it's not an estimate,  
12 but I've also seen numerous other places where the exact  
13 same number is described as estimated.

14 Q Since you've never worked at BlackRock, you don't know  
15 that BlackRock would even use these growth rates, if it had  
16 the same assignment that you had, correct?

17 A I don't know what they would do with the same  
18 assignment. I know that they provide these estimates to the  
19 investing public and investment managers.

20 Q So I just want to understand. After Judge Furman  
21 rejected your opinion in the only case you've testified in,  
22 for failing to account for multiple variables, what you did  
23 here was to take general categories of assets at a point in  
24 time and project them out for a decade, right?

25 A I used a ten-year expected asset projection and used

1 that to apply expected performance over the -- a nine-year  
2 period.

3 Q And assumed the assets would remain allocated the same  
4 throughout that nine-year period, even though you knew they  
5 -- strike that. You just assumed that they would remain  
6 allocated the same throughout that nine-year period,  
7 correct?

8 A I assumed that the asset allocation would remain the  
9 same, yes.

10 Q And you used a set of growth rates you can't validate  
11 the methodology of?

12 A I used a set of growth rates which -- for which the  
13 assumptions are explained in, you know, a reasonable level  
14 of detail by one of the leading asset managers in the world.

15 Q I see. So, you're just relying on BlackRock's  
16 reputation?

17 A I'm relying on their reputation in the market. I'm  
18 relying upon their description of the process that they went  
19 through in order to derive these estimates. I'm relying on  
20 the fact that they said that they are publishing this  
21 information to help investors and portfolio managers  
22 navigate capital markets. Yes, sir.

23 Q And you can't validate -- you have no access to the  
24 algorithms that go into forming those return figures  
25 (indiscernible).

1 A No, I don't have the algorithms that calculate the  
2 returns figures. No, sir.

3 MR. JOSEPH: Okay. All right, I don't have any  
4 more questions of this witness, Your Honor.

5 THE COURT: Okay. Any other cross?

6 MS. MONAGHAN: Very briefly, Your Honor.

7 CROSS EXAMINATION OF WILLIAM HRYCAY

8 BY MS. MONAGHAN:

9 Q Mr. Hrycay, is it correct that your calculations assume  
10 that none of the IACs were sold before 2027?

11 A Yes. I assumed that the IACs would be sold in 2027.

12 Q And so if any of the IACs were sold before 2027, your  
13 calculations would not reflect that. Is that correct?

14 A No, the calculations wouldn't reflect that.

15 Q Did you review the settlement agreement terms with  
16 respect to the IAC sales and what the obligations are of the  
17 Sackler families and the trusts that own the IACs?

18 A As represented in the June 3rd statement? Is that what  
19 you have in mind?

20 Q At all.

21 A In the -- I reviewed the June 3rd statement, yes, sir -  
22 - yes, ma'am.

23 Q So under the settlement agreement, are the Sackler  
24 families entitled to sell the IACs, retain the proceeds,  
25 reinvest them, keep the returns, and only then pay those

1 proceeds over to the settlement process?

2 A My understanding is the IACs were expected to be sold  
3 over time and deposited into a account. I forgot the title  
4 of the account.

5 Q So the answer is no, correct? They are not permitted  
6 to earn returns after the IACs are sold, whenever they are  
7 sold, between now and 2027, correct?

8 A That may be correct.

9 Q And your model takes no account of that, correct?

10 A The model assumes that they'd be sold in 2027.

11 Q Mr. Hrycay, Mr. Joseph asked you some questions about  
12 the fact that there's been a diligence process undertaken by  
13 groups of creditors with respect to the value of the IACs.  
14 Do you recall that?

15 A He did.

16 Q And those creditor groups include the creditors who  
17 retained you, correct?

18 A I don't know that for sure. That may very well be the  
19 case.

20 Q So if the outcome of that diligence is different than  
21 the values reflected in your report, would you encourage  
22 those parties to disregard the diligence and rely on your  
23 numbers instead?

24 A I relied on the Huron estimates of projected sale value  
25 that were -- the information that was available to me. The



1 settling parties or the other parties can make their own  
2 decision.

3 Q In performing your calculations, Mr. Hrycay, you  
4 neglected to take account of the fees associated with the  
5 investments. Isn't that correct? You reported gross  
6 returns without taking account of fees?

7 A I did not adjust the returns for fees, no.

8 Q And that's true even though BlackRock cautioned that  
9 those growth rates are gross of fees and that fees should be  
10 taken into account; isn't that correct?

11 A It does state that. It also states that for these  
12 sorts of asset categories which are broad based equity  
13 returns, such as the S&P 500 or the MSCI World indices, that  
14 these would be low or 0.15 percent, for example.

15 Q But there are categories of assets, including those  
16 within these report for which the fees would be anticipated  
17 to be higher; isn't that correct?

18 A Well, for example, if you need a specific example, we  
19 can discuss it. If we're talking about private equity, for  
20 example, I didn't apply the private equity rate of return,  
21 which BlackRock had at 18 percent. I applied, again, the  
22 sort of broader market rate of return, including a mix of  
23 debt and equity, the 60/40 debt (indiscernible) equity.

24 Q So even though you used the BlackRock rates, you  
25 disregarded the BlackRock rates for one category of assets,

1 correct? That's what your testimony is?

2 A I used a more conservative assumption than the  
3 BlackRock asset category would have implied.

4 Q Mr. Hrycay, I think this is implicit in your testimony,  
5 but just to confirm, you have no basis for your starting  
6 number of \$4.5 billion for the value, the gross value of the  
7 IACs other than the Huron data; is that correct?

8 A That's correct.

9 Q And so if Huron disagrees that that was the current  
10 market value, you have no basis independently to say that  
11 was the current market value; isn't that correct?

12 MR. POPOFSKY: Objection to current market value.

13 BY MS. MONAGHAN:

14 A That I believe Huron was trying to estimate was -- or  
15 reported that they were estimating was the value of what the  
16 IACs would be sold for over time. They maintained the same  
17 number from 2019, 2020, now in to 2021, despite the fact  
18 that market conditions have changed. U.S. equity markets,  
19 for example, have gone up, I think, more than 38 percent  
20 during those time periods in my report, and I think it's --  
21 33 percent, beg your pardon. I think it's a more reasonable  
22 assumption to say that as market conditions change, that  
23 values of securities change.

24 Q But when Huron reported the \$4.5 billion, in 2019, that  
25 was accurate enough for you to feel you could rely on it.

1 And then when Huron reported the same number in 2020, on the  
2 Raymond Sackler side, that was accurate enough that you felt  
3 you could rely on it, and then all of a sudden in 2021, it's  
4 not accurate anymore?

5 A I have tried to reflect the fact that when you have a  
6 estimate that's created in one market environment here in  
7 2019, that one should update that. It's now been more --  
8 almost two years since September 2019 and I think that  
9 estimates of market values of securities should reflect  
10 market conditions.

11 MS. MONAGHAN: I have no further questions, Your  
12 Honor.

13 THE COURT: Okay. Are the IACs publicly traded?

14 THE WITNESS: No, sir.

15 THE COURT: So, when you're referring to market  
16 conditions, are you referring to market conditions for the  
17 IACs?

18 THE WITNESS: Yeah, the market conditions in  
19 general. You know, you can think about it this way, Your  
20 Honor. Imagine someone had come up with an estimate in the  
21 year 1928 for how much they expect to sell some business  
22 over the course of the next five to ten years, and then 1929  
23 happens and you keep seeing reports that keep coming out  
24 with the same sale value year after year. At some point,  
25 you start to think it's unreasonable, because the Great

1 Depression happened and the market crashed out right in the  
2 middle of all that.

3 And we've had a little bit of that, just kind of  
4 in reverse, where the market hasn't gone down by 50 percent,  
5 but it has gone up by 33 percent, and to say that the amount  
6 that you're going to sell these, you know, very valuable  
7 assets for, is not going to change over the course of two  
8 years, when market conditions are changing, doesn't seem  
9 that reason able to me. And so, I've assumed that --

10 THE COURT: But you're looking at the general  
11 world -- what market are you looking at, the general  
12 worldwide market? The U.S. public securities market?

13 THE WITNESS: No, sir. For the IACs, my change in  
14 value is based on -- sorry, I want to get -- I want to be  
15 exact for you -- MSCI World ex U.S. Index.

16 THE COURT: I'm sorry --

17 THE WITNESS: MSCI --

18 THE COURT: Say that again?

19 THE WITNESS: MSCI -- that's the Morgan -- it's  
20 published by Morgan Stanley, and it's kind of like the S&P  
21 500, in that it's a broad-based equity market index, except  
22 it's not for the United States. It's for the world outside  
23 the United States.

24 THE COURT: So publicly traded securities that are  
25 international companies?

1 THE WITNESS: That's correct, sir. Yes.

2 THE COURT: All right. Okay. But you don't know  
3 the basis for Huron's valuation?

4 THE WITNESS: Other than what they said, no, sir.

5 THE COURT: Well -- and what do you think they  
6 said the basis was.

7 THE WITNESS: They --

8 MR. POPOFSKY: I'm sorry, Your Honor, I don't  
9 think he heard --

10 THE COURT: What do you think they said the basis  
11 for their valuation was?

12 THE WITNESS: They said that it was the estimated  
13 sale value based on what they think they could get in an  
14 arm's length transaction as conducted over, you know, a  
15 reasonable sales process. But they didn't specify, you  
16 know, is it discounted -- was it based on discounted  
17 cashflow, was it based on marketable -- some sort of market  
18 multiple. They didn't say specifically in any of their  
19 reports that I've seen.

20 MR. POPOFSKY: (indiscernible).

21 THE COURT: And that valuation assumed a sale in  
22 the future, right?

23 THE WITNESS: Yes.

24 THE COURT: Which assumed, potentially, the  
25 increase in market rates or the decrease in market rates?

1 MR. POPOFSKY: If you're not hearing me, Judge --

2 THE COURT: (indiscernible) say it again --

3 MR. POPOFSKY: (indiscernible).

4 THE COURT: So --

5 THE WITNESS: (indiscernible) say it?

6 THE COURT: That assumption of Huron's, i.e., they  
7 were assuming a sale, it was a sale in the future, right?

8 THE WITNESS: They were assuming a sale in the  
9 future. Yes, Your Honor.

10 THE COURT: Okay.

11 THE WITNESS: But the same (indiscernible) --

12 THE COURT: So, in assuming a sale in the future,  
13 do you take into account assumptions as to growth on the one  
14 hand and decline on the other?

15 THE WITNESS: It's not clear that they did that.  
16 It's -- all I know is it was an estimate that existed as of  
17 September 2019.

18 THE COURT: Okay.

19 THE WITNESS: And that market conditions changed  
20 after --

21 THE COURT: Well, but if you don't know the basis  
22 upon which they projected the sale value in the future, how  
23 do you know whether they took in account market changes or  
24 not?

25 THE WITNESS: It's possible that they did. It's

1 possible that they anticipated that, you know, markets were  
2 going to do very well over the next two years, but given  
3 that the fact that these are sale expectations that were  
4 formed in 2019, it seems more reasonable to me that one  
5 should assume that when market conditions changes, the  
6 amount you expect to sell an asset for changes.

7 THE COURT: But as your example showed, that could  
8 change overnight, as happened in October of 1929, right?

9 THE WITNESS: It certainly could. Yes, sir.

10 THE COURT: Okay. All right.

11 THE WITNESS: And that's what I was trying to  
12 account for, the fact that it had changed to the up side.

13 THE COURT: Well, but that's as of today, you're  
14 assuming. In fact, you assumed it during a period when, I  
15 guess -- I guess, you didn't assume it during a period where  
16 it was growing, right -- the market was growing? There was  
17 a period where you didn't assume change while the market was  
18 growing.

19 THE WITNESS: So, for the -- yes, for the Raymond  
20 side asset, because their statement was September 2020, I  
21 started it at September 2020, but that would -- perhaps it  
22 would've been more consistent to start both of them in  
23 September 2019 and account for the market changes between  
24 those two dates. I didn't do that. That would result in a  
25 higher value than I have, but I did keep the Raymond side

1 value at the 2020 value.

2 THE COURT: Okay, thank you. I don't --

3 THE WITNESS: Thank you.

4 THE COURT: -- questions on that line of  
5 questioning that I had? No? Any redirect?

6 MR. POPOFSKY: Yes. Few minutes of redirect, Your  
7 Honor.

8 THE COURT: Okay.

9 REDIRECT EXAMINATION OF WILLIAM HRYCAY

10 BY MR. POPOFSKY:

11 Q I'd ask you to turn to the same Joint Exhibit 1914,  
12 which was Tab 4 of Side B's binder, and look at Paragraph 29  
13 of Mr. Martin's report, please.

14 A Yes, sir.

15 Q Could you read the first three sentences of Paragraph  
16 29 from Mr. Martin please?

17 A "Although I express no opinion with respect to the  
18 value of any specific asset, I believe that with the  
19 adjustments made, the net assets report, updated net assets  
20 report, and March 31st, 2021 net assets report represent a  
21 reasonable approach to approximate the net asset values of  
22 the Raymond side ICSPs. I further believe that it is  
23 reasonable to use \$4.5 billion as an illustrative value for  
24 the estimated value of the IACs in lieu of the balance sheet  
25 value because that was the value assigned to the IACs in



1 connection with the proposed settlement framework. My  
2 understanding of the 4.5 illustrative value was arrived at  
3 assuming an orderly sale of the 100 percent of the interests  
4 of the IACs."

5 Q This particular version of Mr. Martin's report was  
6 submitted in July of 2021, but when you were preparing your  
7 report in June, had you read language like this in prior  
8 reports from Mr. Martin?

9 A Yes. The previous reports from Mr. Martin contained  
10 the same or very similar language.

11 Q You saw previously language that said it is reasonable  
12 to use \$4.5 billion?

13 A Yes.

14 Q On cross examination, counsel discussed with you  
15 certain change to additional assumptions. One was taken  
16 into account fees. It was pointed out that you didn't take  
17 into account fees in your report. Can you quantify,  
18 roughly, for the Court the effect of that factor on your  
19 \$14.5 billion estimate?

20 A I -- sure. The four-point -- if you (indiscernible)  
21 fees from the same source material, from BlackRock,  
22 BlackRock estimates that fees for these kinds of assets, the  
23 kinds of rates of return I was applying, which were the  
24 fraud market indices that you can get from an index fund,  
25 for example, or an ETF, would cost 0.15 to, believe it was

1 0.4 percent. That wouldn't apply to all the asset  
2 categories. It doesn't apply to residential real estate,  
3 for example. It just applies to some of these broader  
4 market measures. If you apply this discount -- if you  
5 subtract a 1.5 -- I'm sorry, 0.15 to 0.45 fee, annual fee,  
6 you would get to at least some of the asset categories, you  
7 might get a reduction of up to 1 percent on the total asset  
8 value for 2030.

9 Q And what is that -- what does that do to \$14.5 billion?

10 A That would roughly reduce it by about \$140 million, at  
11 1 percent. If you were to say 2 percent, that would be \$280  
12 million or \$290 million.

13 Q Down to \$14.1 or \$14.2 billion?

14 A That sounds right.

15 Q And same question with regards to IAC sales. You were  
16 asked on cross examination about potentially different  
17 timing on the sales of the IACs from the time you had  
18 assumed in your report. Can you quantify roughly the effect  
19 on the \$14.5 million estimate if the IACs are sold at  
20 earlier times?

21 A It would depend a lot on the type of -- the timing of  
22 the assumptions, when they're sold, how much they're sold  
23 for, but roughly speaking, it would have some impact. It  
24 might have a -- let's say a 5 percent impact. You have to  
25 bear in mind that if there's money -- if the IACs are being

1 sold and those proceeds are being used to fund settlement  
2 payments at earlier dates, then what you would see -- a  
3 couple things. One, you'd see a reduction in the tax  
4 obligation that goes with that, that I billed up as a  
5 liability in these estimates as well. And then the other  
6 thing you would see is that other funds that I'm currently  
7 using to make some of the other payments, would be free to  
8 be invested. So, they could keep money in things like a --  
9 their marketable securities fund, for example, and continue  
10 to earn, you know, 5 percent on that. So, the difference  
11 would not be maybe as big as maybe you would expect.

12 Q When I asked you to quantify and you said maybe 5  
13 percent, can you put a dollar figure on that? How does that  
14 affect \$14.5 billion estimate?

15 A The 5 percent would be approximately -- I believe  
16 that's about \$750 million.

17 Q That would take your -- the midpoint of your estimate  
18 down into the high \$13 billions; is that right?

19 A Somewhere in there. Yes, sir.

20 Q In your report, Paragraph 3 of your report says that  
21 you were asked to estimate the expected net value of the  
22 Sacklers' assets over the next ten years, and Paragraph 10-A  
23 says, "As of 2030, after the propose payments, the expected  
24 net value of the Sackler assets would be \$14.574 billion."  
25 Mr. Hrycay, why did you not include bands of uncertainty or

1 sensitivity analyses in that conclusion?

2 A A couple of reasons. One, this is what I was asked to  
3 do. It was my assignment from the attorney who hired me.  
4 They asked me to estimate an expected value. Second is  
5 that, you know, I understand that this is a sophisticated  
6 forum, that what I provided the Court is a midpoint  
7 estimate. I think that sophisticated users of that  
8 information will understand that it's not an exact  
9 prediction, that it could be lower, it could be higher. But  
10 what we have and what I've given the Court is a midpoint  
11 estimate.

12 Q Is it common to do sensitivity analyses in connection  
13 with financial projections?

14 A Sure. sometimes, you see sensitivity analyses to the  
15 upside and to the down side. Also, common not to do  
16 financial -- it's also common not to do sensitivity analyses  
17 to the up side or down side. For example, the -- there's a  
18 financial forecast for Purdue, the company, and it's part of  
19 the reorganization plan, how much revenue, costs you might  
20 see. This is in one of the appendices for the June 3rd  
21 settlement agreement. And -- settlement proposal. And  
22 there's no -- there's not an upper bound or lower bound.  
23 It's a forecast. It's a single-point forecast.

24 Q And is it common to use a single-point forecast also in  
25 financial projections?

1 A Yes, it is.

2 Q Would the assumptions you employed in your report, were  
3 they aggressive? Were they neutral? Were they  
4 conservative?

5 A In several places, I think I employed conservative  
6 assumptions. We discussed before the private equity  
7 assumptions with the Raymond side of the family has one of  
8 their assets listed as private equity. The most natural  
9 matching category in -- among the BlackRock categories was  
10 called private equity and they had 18 percent annual growth  
11 rate for that, more than 18 percent. They had some  
12 qualifications around that.

13 They said it was based on limited information, mostly  
14 that they know from the BlackRock universe of investing, and  
15 therefore, I thought it was more reasonable, more  
16 conservative to employ a rate of return that reflected a  
17 broader asset mix, and that being the 60/40 equity/debt  
18 split that we discussed earlier and so I ended up using a 5  
19 percent growth rate rather than 18 percent growth rate for  
20 that category of assets which I think was about \$1.6 billion  
21 as of -- in the Huron report. Yes, \$1.66 billion. So that  
22 was one of the conservative assumptions.

23 Using the 60/40 asset split overall in many of these  
24 categories, is conservative for a high net worth individual;  
25 60/40 is -- it's kind of a rule of thumb that you've seen in

1 investment management. Keep 60 percent of your assets in  
2 debt and 40 percent -- I'm sorry, 60 percent in equity, 40  
3 percent debt, and, you know, it's a rule of thumb that's  
4 used for people who are -- need that money to pay the  
5 mortgage and if the market goes down 20 percent, they can't  
6 -- you know, it's going to impact them, but they don't want  
7 to be in equity funds if it goes down 20 percent.

8 So, you know, but as you get -- a general principle in  
9 finance, is that if you get -- for the most part, when you  
10 have -- if you're dealing with higher levels of wealth, that  
11 there's (indiscernible) less sensitivity to those kinds of  
12 (indiscernible), and so you see -- tend to see a little bit  
13 more of an equity split. That was another conservative  
14 assumption, but was also a category in BlackRock asset  
15 projections that was for, I believe it's called private  
16 lending, which had a rate of return over 9 percent.

17 I didn't apply that to any of the group. So overall,  
18 as the Kane report actually pointed out, the rate of return  
19 I end up applying is about 5.4 percent across the total mix  
20 and I think that's pretty consistent with a number of ways  
21 to get there, including some reasonable mix of debt and  
22 equity.

23 Q Anything else (indiscernible) on assumptions?

24 A Well, I mean, one of the assumptions is that the --  
25 when the payments are made, there's no countervailing tax

1 benefit associated with that. I hadn't seen anything at the  
2 time I wrote my report -- subsequent report. I think it was  
3 the 12th supplement, Section 4 discusses the potential for  
4 these assets -- I'm sorry, for these payments, to receive  
5 certain tax treatment that would reduce the impact from \$4.2  
6 billion or thereabouts. For example, if you would say that  
7 there's -- apply the 33 percent tax rate that is used in the  
8 Martin report to the full amount, just for illustration,  
9 then that's about a \$1.4 billion benefit that nets out. I  
10 didn't apply anything like that in the projections.

11 Q On cross examination a short while ago, Mr. Joseph went  
12 through with you the two-step process that you employed in  
13 your report, where first you had to bring certain value to  
14 current, to the end of 2020 (indiscernible) 2021 and then  
15 project them forward. And he pointed out that you did  
16 subsequently become aware of actual financial reports that  
17 brought the assets current to the end of 2020 or the start  
18 of 2021.

19 A Correct.

20 Q Do you recall that?

21 A Yes, I do.

22 Q Mr. Joseph also indicated that you were way off on your  
23 estimates. Do you agree with that?

24 A I don't agree with that, and the reason I don't is that  
25 the majority of the difference is the assumptions about the

1 IAC value, and we've discussed that, but one of the biggest  
2 drivers of the difference between the net asset value that I  
3 have as of March 31st and the net asset value that was  
4 reported in Huron, is the difference in the IAC value, and  
5 so that's -- it's a methodological difference; it's not a  
6 calculation difference, so --

7 Q And if you put aside what you just called a  
8 methodological difference, how did your estimate compare to  
9 what actually came out?

10 A The -- on the -- if you do the analysis without --  
11 after subtracting out the value of the IACs, putting those  
12 aside, the value of the Sackler family net assets as of the  
13 two earlier Raymond reports is about 10.7. If you subtract  
14 out the net of \$3 billion, give or take, for the IACs, you  
15 have a value of about \$7.7 billion. That grows over the  
16 course in my report to, I think, about \$8.6 billion, and I  
17 think in another report, it's about \$8.5 billion. So, the  
18 difference is about \$100,000 on net between the two sides --

19 Q (indiscernible).

20 A Hundred million, thank you. If you exclude the  
21 different assumptions we made about how much the IACs might  
22 be sold for.

23 Q Testified on cross examination that you did not ask  
24 particularly for due diligence material when you were  
25 preparing your report. What did you ask for?



1 A I asked for information about -- I asked for  
2 information about the IACs and I asked for, specifically,  
3 the best indications of value as to what the IACs are worth,  
4 and I read the -- what we had in the Martin report and I  
5 asked if there was any other valuation reports or anything  
6 along those lines on the IACs, and it was indicated to me  
7 that the Martin report and the Huron attachments were the  
8 best indications of value.

9 Q Did the rebuttal expert report by Mr. Kane offer any  
10 counter estimate to yours on the expected value of the  
11 Sackler assets in 2030, something different from your \$14.5  
12 billion midpoint estimate?

13 A No, it did not.

14 Q Did the rebuttal expert report from Mr. Kane assert  
15 that BlackRock is not a reliable source from which to  
16 construct financial projections?

17 A No, it did not.

18 MR. POPOFSKY: No further redirect, Your Honor.

19 THE COURT: Okay. Any re-cross on redirect?

20 MR. HUEBNER: Yes, Your Honor. Based on your  
21 questions, and on the re-cross, I have -- I was about to say  
22 five questions, but then I'll get several smart-aleck emails  
23 from people afterwards that I asked six or seven, so I have  
24 a very small number of questions.

25 MR. POPOFSKY: Having a little trouble hearing.

1 MR. HUEBNER: Let me just bring it closer, with  
2 apologies. Can you hear me now?

3 THE WITNESS: Somewhat better, thank you.

4 MR. POPOFSKY: You're breaking up a little bit,  
5 but let's try it.

6 MR. HUEBNER: Good.

7 RE-CROSS EXAMINATION OF WILLIAM HRYCAY

8 BY MR. HUEBNER:

9 Q Sir, did you -- for the record, I'm Marshall Huebner,  
10 sir. I represent the Debtors in this case. Can you hear me  
11 clearly now?

12 A Fairly clearly. We'll try it.

13 Q Okay. Did you listen to David Sackler's testimony  
14 earlier today?

15 A No, I did not.

16 Q Okay. So, let's just make the assumption that Mr.  
17 Sackler testified that the family was interested in selling  
18 the IACs and that they would not breach that covenant  
19 because that is, in fact, how they hope to pay all of the  
20 settlement. We just take that as an assumption, since I  
21 believe he so testified?

22 A Okay.

23 Q Okay. If, hypothetically, the Sacklers sold all of the  
24 IACs in the first year or two after these proceedings, what  
25 would that do to your calculations, since I believe you

1 testified that your math assumed that they held, invested,  
2 and grew \$4.5 billion in value for the entire period? Would  
3 that largely materially drop your terminal estimate of their  
4 wealth if in year one or two, \$4.5 billion disappeared?

5 A Are we assuming the sale price would be \$4.5 billion?  
6 What are you assuming the sale price is?

7 Q So that's a great question, and you're right, because  
8 the lower the sale price, the more they have to dip into  
9 other assets to pay us, so let's go with that assumption for  
10 the beginning, which is they sell them for \$4.5 billion net.

11 A If they sell for \$4.5 billion net, at the beginning of  
12 the period, let's say 2022, then that would reduce some of  
13 the -- that would -- yes, it would reduce the estimated  
14 value I have on the IAC, which assumes that the two-year-old  
15 estimate on what the sale price is likely to be, would be --  
16 would turn out different than that. It would mean that the  
17 family would be able to keep the rest of its assets, so that  
18 would be something of an offset. There would be also  
19 something of an offset between the tax liability that  
20 assumed also grew at the same 7 percent plus rate, so there  
21 would be a couple of offsets, but certainly, if they only  
22 sold for 4.5, then that would reduce the net asset value I  
23 projected.

24 Q But sir, are you aware that under the settlement  
25 agreement they're obligated to pay us the net proceeds,

1 potentially, as soon as they are realized? Are you aware of  
2 that?

3 A Yeah, that's my read of the agreement. Yes, sir.

4 Q Right. So, in other words, an accelerated sale of the  
5 IACs would move material assets from the Sacklers'  
6 investible asset base on an accelerated basis; is that  
7 correct?

8 A Yeah, if they sell the IACs next year, for example,  
9 then that removes the asset from their asset base.

10 Q Right. And if they sold them for much less than \$4.5  
11 billion, on an accelerated basis, then they would actually  
12 suffer a radically greater decline in wealth, because they  
13 both wouldn't have that spread, and they would have to dip  
14 into personal assets to pay along the schedule provided for  
15 in the settlement. Is that correct?

16 A Yes. Hypothetically, if they sold for less than \$4.5  
17 billion, then they would need to use proceeds from  
18 (indiscernible) assets, and that would --

19 Q But again, I was asking you a different question.

20 A I beg your pardon.

21 Q Which is, doesn't that -- which everything you said so  
22 far is right, just you didn't get to the last part, which  
23 is, that means that their terminal wealth would be very much  
24 lower, right, because they would both have a lower IAC sale  
25 recovery and they would have to dip into other assets, so

1 their investible base would be much, much lower several  
2 years in than you budgeted for. Is that correct?

3 A It would be -- it would be lower. I mean, I don't know  
4 what you mean by much, much lower. I haven't run the  
5 numbers --

6 Q (indiscernible).

7 A -- but I do take your point.

8 Q Apologies. I don't have a finance degree. We'll go  
9 with much lower, and I withdraw the second "much" which is  
10 not particularly useful. And so the reason I'm asking,  
11 because I represent the estate, right, one of the many  
12 parties who negotiated this deal opposite the Sacklers, and  
13 so if it turns out that your -- withdrawn. Let me ask one  
14 other question first. Do you understand that as compared to  
15 the deal with (indiscernible) bankruptcy in 2019, the estate  
16 now no longer has a contingent recovery based on the value  
17 of the IACs, but instead of having a fixed recovery of only  
18 \$3 billion, we now have a guaranteed recovery of \$4.325  
19 billion?

20 A Yes.

21 Q You understand --

22 A I've read that in the June 30 -- June 3rd statement.  
23 Yes, sir.

24 Q Okay. And so, if that \$4.325 billion ends up being a  
25 much bigger percentage of a lower terminal value than the

1 one that you testified you thought was right, that means we  
2 cut a better deal than your report would lead one to  
3 believe, doesn't it?

4 MR. POPOFSKY: Objection.

5 THE COURT: What --

6 MR. HUEBNER: On what grounds?

7 THE COURT: On what basis?

8 MR. POPOFSKY: Mr. Hrycay is here as an expert on  
9 the -- on what he opined on, which is the ultimate value of  
10 the Sacklers' assets, not on whether it's a good deal or bad  
11 deal. That's for the lawyers to argue and Your Honor to  
12 decide. That's not for Mr. Hrycay to opine on. And he did  
13 not, in fact, opine on that.

14 MR. HUEBNER: Your Honor, that's great. That was  
15 actually going to be my next question, which I'm now not  
16 going to ask. So, I'm actually going to ask the question I  
17 did ask.

18 BY MR. HUEBNER:

19 Q Which is, isn't it mathematically correct that if their  
20 terminal wealth is much lower than your report suggested,  
21 that the estate and its stakeholders are receiving a  
22 concomitantly higher percentage or a correspondingly higher  
23 percentage of their wealth?

24 A If the projected wealth is lower than as estimated in  
25 my report, then \$4.25 billion as a percent of a smaller

1 number is a higher percentage. Yes, sir.

2 Q Okay. One last question. Are you aware that the IACs  
3 are -- I believe from the judge's colloquy I now know the  
4 answer, so it'll really be the follow-up that I'm asking --  
5 just to confirm, you told the judge that you understand that  
6 the IACs are privately held pharmaceutical companies; is  
7 that correct?

8 A They are privately held distribution companies, my  
9 understanding, that distribute Purdue Pharma product. I'm  
10 not sure if that's a distinction in your mind, but --

11 Q Okay, I'm happy to leave it at that level of generality  
12 for now. I'm not (indiscernible) correct, but we'll go with  
13 it. And are you aware that there are -- do you know how  
14 many countries the IACs are in?

15 A They're in many countries. I forget the exact number.  
16 I think I saw around a hundred. That may not be right.

17 Q Okay. And do you purport to have expertise in the  
18 markets and market conditions in, let's say, 50 of those  
19 hundred countries?

20 A No, I'm not opining on the specific market conditions  
21 in any of those countries. No, sir.

22 Q Okay. And would you agree that, for example, a set of  
23 privately held pharmaceutical companies in 100 countries may  
24 not be perfectly correlated to the MSCI 2 World Index,  
25 especially when compared, for example, to an investment

1 portfolio of publicly held stocks and bonds?

2 A No, it's probably not perfectly correlated. It's an  
3 indicator of where international markets are going and  
4 that's the way I used it, but you're certainly right, it's  
5 not (indiscernible) have perfect correlation.

6 Q Right. And is it fair to say that it's probably much  
7 harder to value 100 privately held pharmaceutical companies,  
8 100 separate companies, let alone over time, than it is to  
9 value a portfolio of publicly traded stocks and bonds?

10 A Yes, I think that's a fair statement.

11 Q Thank you, sir. I have nothing further. Thank you  
12 very much for your time.

13 A Thank you.

14 MR. POPOFSKY: I have two questions, Your Honor,  
15 hopefully.

16 THE COURT: Is that -- I'm sorry, who -- I can't  
17 say who asked

18 MR. POPOFSKY: I'm sorry, this is Mr. Popofsky. I  
19 have two redirect questions.

20 THE COURT: Well, before we get to that, I just  
21 want to know if there's any other -- further re-cross, based  
22 on your direct -- your redirect, from either Mr. Joseph or  
23 Ms. Monaghan.

24 MR. JOSEPH: I have nothing.

25 MS. MONAGHAN: I have just a couple questions.



1 CROSS-EXAMINATION OF WILLIAM HRYCAY

2 BY MS. MONAGHAN:

3 Q Mr. Hrycay, you described what you characterized as a  
4 methodological difference as to the valuation of the IACs as  
5 accounting for the majority of the difference between your  
6 calculation of the Side B assts in six months versus the  
7 (indiscernible) Report. Is that correct?

8 A Yes.

9 Q Did you do a discounted cashflow analysis of the IAC  
10 value?

11 A No, I did not.

12 Q You didn't do a recent comparable sale analysis of the  
13 IAC value. Isn't that correct?

14 A No, I did not.

15 Q You did not do a precedent transaction analysis of the  
16 IAC value. Isn't that correct?

17 A No, I did not.

18 Q Thank you. No further questions.

19 THE COURT: Okay. Now you can ask that, Mr. --  
20 you can ask the redirect on that recross.

21 REDIRECT EXAMINATION OF WILLIAM HRYCAY

22 BY MR. POPOFSKY:

23 Q On the question from a couple of minutes ago about it  
24 being harder to value 100 international companies, does that  
25 lead to a conclusion in either direction, one direction of

1 the other, that these characteristics lead to a conclusion  
2 that the value might be higher or lower than your estimates?

3 A It doesn't lead to a particular conclusion in either  
4 direction. The question was whether there's perfect  
5 correlation between the MSCI World Index and any particular  
6 of these -- let's call it a hundred international markets.  
7 And no, there's not. Some markets could be better, some  
8 markets could be worse. But it doesn't necessarily indicate  
9 a directional bias.

10 Q And when you were asked about the IAC's possibly being  
11 sold earlier, one of the things you said was the Sacklers  
12 would be able to keep the rest of their assets. Can you  
13 just elaborate on what you meant by that?

14 A Yes. In my model, because the IAC sales don't occur  
15 until 2027, I am assuming that in order to me the prior  
16 payments, the payments in 2021 through 2026, that other  
17 certain assets are sold off over time or liquidated over  
18 time. And that means they're not available for any return.  
19 So if the IACs are sold sooner, that means that the family  
20 can maintain its other assets and a return on its stock  
21 market portfolio, for example.

22 MR. POPOFSKY: No further redirect, Your Honor.

23 THE COURT: Okay. Any other questions? No?

24 You can sign off, Mr. Hrycay.

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: Or Hrycay, excuse me.

2 Okay. That takes us back to Mr. Cowen if I'm not  
3 mistaken.

4 MR. POPOFSKY: Well, you're demoting him. It's  
5 Dr. Cowen.

6 THE COURT: Excuse me. Well, PhD doctor.

7 MR. POPOFSKY: Well, we'll see how the testimony  
8 goes.

9 THE COURT: So -- and I see him there on the  
10 screen. Let me just get his declaration and cross-  
11 examination exhibits. Okay.

12 Mr. Cowan, would you raise your right hand,  
13 please? Do you swear or affirm to tell the truth, the whole  
14 truth, and nothing but the truth, so help you God?

15 MR. COWEN: I do.

16 THE COURT: Okay. And it's Charles C-O-W-A-N?

17 MR. COWEN: Yes, sir.

18 THE COURT: Okay. Mr. Cowan, you submitted a  
19 declaration dated August 5, 2021 which attaches an amended  
20 expert report authored by you and Sean Malone.

21 MR. COWEN: Yes, Your Honor.

22 THE COURT: Under my order establishing procedures  
23 for this hearing, the declaration and the attached report  
24 are intended to be your direct expert testimony for the  
25 purposes of the hearing. Sitting here today on August 17,

1 is there anything that you would wish to change in your  
2 declaration or the amended expert report?

3 MR. COWEN: No, Your Honor.

4 THE COURT: Okay. All right. Does anyone object  
5 to the admission of Mr. Cowen's declaration or the amended  
6 expert report?

7 MR. WAGNER: No objection.

8 THE COURT: Okay. All right. Does anyone want to  
9 cross-examine Mr. Cowan on the expert report?

10 MR. WAGNER: Yes, Your Honor. Jonathan Wagner for  
11 Kramer Levin Naftalis & Frankel on behalf of the Ad Hoc  
12 Committee of Governmental and Other Contingent Litigation  
13 Claimants.

14 THE COURT: Okay.

15 MR. WAGNER: May I proceed?

16 THE COURT: Yes.

17 CROSS-EXAMINATION OF CHARLES COWAN

18 BY MR. WAGNER:

19 Q Good afternoon, Dr. Cowan. It's nice finally to see  
20 you again.

21 A Same here, Mr. Wagner. Good to see you.

22 Q And I have some questions about your report and the  
23 issue of allocation and the objections by West Virginia. Do  
24 you have your deposition transcript there?

25 A I do.

1 Q Okay. And I'm going to be asking questions probably  
2 about three exhibits, 388, 389, and 392. So let me start  
3 with your qualifications and then we'll get into the  
4 substance.

5 Am I right, sir, that you've never designed an opioid  
6 allocation program that's actually been implemented?

7 A That's correct.

8 Q And am I right that aside from this case, you've never  
9 worked on any litigation involving allocation or abatement  
10 in the context of opioid use?

11 A That's correct.

12 Q And aside from this case, you've never worked on any  
13 litigation involving opioids?

14 A That's correct.

15 Q You listed some cases on your CV. Am I right that  
16 there are cases in which your opinion has at least been  
17 partially excluded?

18 A That is correct.

19 Q And am I right there have been instances when your  
20 opinion was allowed, but the Court did not follow your  
21 opinion?

22 A Yes.

23 Q Now, sir, let's get into the substance. Would you  
24 agree with me that the opioid crisis is one of the most  
25 complex and difficult to measure public health crises in the

1 United States' history?

2 A Yes.

3 Q And would you agree with me, sir, that the issues we're  
4 dealing with in the context of this bankruptcy, vis-à-vis  
5 allocation and abatement, are extremely complicated?

6 A Yes.

7 Q And would you agree with me, sir, that reasonable  
8 people in this case may differ as to what is a reasonable  
9 allocation plan?

10 A I have a problem with the term reasonable in the sense  
11 that it's not a statistical term. It's not a term that's  
12 common in economics. So from a technical perspective, it's  
13 difficult for me to answer that question. From an English  
14 perspective, yes, reasonable people might differ. But I'm  
15 saying that without a basis other than my own opinion as a  
16 person as opposed to being a technical expert.

17 Q And I think you put in your report that you believe  
18 your plan better addresses the issues having to do with the  
19 problem of opioid treatment and abatement. Do you recall  
20 that?

21 A Yes.

22 Q Okay. But reasonable minds could differ on the issue  
23 of what is a better methodology. Isn't that true?

24 A I believe what I said in -- the short answer is yes. I  
25 believe what I said was that it depends on the type -- the

1 objective function, what it is that you're trying to sell  
2 for, and the assumptions that you make to pursue that  
3 objective.

4 Q Okay. Now, sir, you've made presentations concerning  
5 allocation in the context of the opioid crisis, correct?

6 A Yes.

7 Q And abatement as well, right?

8 A Yes.

9 Q And would you agree with me, sir, that your own  
10 writings, reports, presentations, and white papers are  
11 authoritative and reliable?

12 A Yes.

13 Q You made no mistakes in those papers and presentations,  
14 correct?

15 A Not that I am aware of.

16 Q And you stand by those presentations. Am I right?

17 A I do.

18 Q And you have not issued any updates to those white  
19 papers.

20 A I have not.

21 Q Can you look at Exhibit 388, which is your allocation -  
22 - I believe it's Allocation White Paper. Let me know when  
23 you have it there.

24 A I have it in front of me.

25 Q Okay. And can you turn -- this is one of your white

1 papers, right?

2 A Yes, sir.

3 Q Can you turn to Page 12? And tell me when you're  
4 there.

5 A I am there.

6 Q Sir, can you read the top paragraph on that page for  
7 the record?

8 A There are two top paragraphs. I'm assuming you want  
9 the one that's on the upper-left.

10 Q That's correct.

11 A "Previous sections were offered to posit that even with  
12 a limited number of recipients where the nature of the  
13 recipients is well known, there is no simple answer to the  
14 question about how to allocate and award from a series of  
15 trials or one large settlement. Too many questions remain.  
16 Too many issues need to be resolved. Not enough research is  
17 available currently to perform a fair allocation."

18 Q And in that paragraph, you bolded a word, did you not?

19 A Yes, the word no.

20 Q And that's, "There's no simple answer", right?

21 A That is correct.

22 Q If you look at your Fair White Paper, that's Exhibit  
23 392. And let me know when you have it.

24 A Mr. Wagner, did you say 392?

25 Q Yeah. That's the Fair White Paper.



1 A Okay. I am there.

2 Q You have it?

3 A Yes.

4 Q Okay. Can you turn to Page 2 of that document that you  
5 authored? Let me know when you're there. The one that says  
6 defining fair.

7 A Thank you. I am there.

8 Q Okay. And can you read the second paragraph of that  
9 page on the left side?

10 A "Fair stirs strong sentiment. We don't ask for fair,  
11 we demand it. When only two parties search for fair, fair  
12 is relative to both parties. When more than two people are  
13 involved, fair is relative to each member of a group, making  
14 it supremely hard to recognize or adjudge.

15 Q And would you agree with me, Dr. Cowan, that that's  
16 true with respect to this context, which is considering --  
17 which is the consideration of competing allocation plans?

18 A Yes.

19 Q And the abatement plans in this case are future-looking  
20 plans, right?

21 A That's my understanding, yes.

22 Q And the answer to what is fair in the context of an  
23 abatement plan to address future damages is complicated, is  
24 it not?

25 A Yes.

1 Q And when trying to deal with projections to the future  
2 in the context of these allocations and abatement plans, a  
3 solution becomes even more complicated, correct?

4 A Yes.

5 Q Okay. Now let's turn to the subject of good faith. In  
6 your white papers, you've written about the difficulty of  
7 putting in place a global settlement in the context of  
8 opioid abuse. Right?

9 A Yes.

10 Q And you understand that the attorneys general who  
11 negotiated these settlements, this settlement, are competent  
12 counsel, right?

13 A Yes.

14 Q And they are the chief legal officers of their various  
15 states, are they not?

16 A Yes.

17 Q And it's your understanding that the attorneys general  
18 were advocating as best they could on behalf of their  
19 particular states, correct?

20 A I actually don't have personal knowledge of that.  
21 That's my understanding based on the claims that I've heard.  
22 But again, I don't have personal knowledge of that.

23 Q Okay. But you do know, sir, that the plan that emerged  
24 in the bankruptcy and that's now before Judge Drain is the  
25 result of compromise among the attorneys general, right?

1 A Yes.

2 Q And you understand that it is in the nature of  
3 bankruptcy settlements that there is compromise amongst the  
4 parties, right?

5 A Yes.

6 Q And you have a plan in your own -- you set out a plan  
7 in your report, did you not?

8 A I did.

9 Q And your own plan is a compromise between what we'll  
10 call the Denver Plan and a federal plan called SAMHSA,  
11 correct?

12 A I think your use of the word compromise has taken on a  
13 new meaning. The estimate and allocation plan that we  
14 developed is a compromise mathematically in the sense that  
15 it falls between two other points. But it's not as if it's  
16 a compromise between two groups of people or the result of  
17 discussion, it's simply a mathematical formulation.

18 Q That's fine. And would you agree with me that  
19 mathematically all plans would be some kind of compromise?

20 A No.

21 Q Did you get deposed in this case, sir?

22 A I was, but -- sure, go ahead.

23 Q And that was last month, was it not?

24 A Yes.

25 Q Can you turn to your deposition, Page 127, Line 21?

1 Let me know when you're there.

2 A Okay, I'm sorry. I'm at my deposition. And tell me  
3 where I should go again, please.

4 Q Just tell me when you're at Page 127, Line 21.

5 A 127.

6 Q Line 21. Just tell me when you're there.

7 A Yes.

8 Q And were you asked the following question and did you  
9 give the following answer?

10 Question, "So your plan is in some sense a compromise,  
11 right?"

12 Answer, "Well, mathematically all plans would be some  
13 type of compromise."

14 Were you asked that question and did you give that  
15 answer?

16 A I did.

17 Q And, sir, you're not aware of a single other states  
18 besides West Virginia that's objecting to the bankruptcy  
19 plan allocation, are you?

20 A Not to the allocation, no.

21 Q Okay. Now let's talk about some of the models in your  
22 white papers. Your white papers contained allocation  
23 models, did they not?

24 A We gave hypotheticals. And on a small scale, not on a  
25 national scale, but yes.

1 Q That's fine. And you prepared those models pre-  
2 litigation, right?

3 A I did.

4 Q Okay. And nothing in your white papers, which were  
5 prepared before litigation, are remotely close to the model  
6 that you came up in this litigation, isn't that true?

7 A I think I would object to the use of the words remotely  
8 close because some of the models involve intensity, some  
9 involve severity. They are a different type of mix. They  
10 are what you just called a compromise.

11 Q Sir, you were deposed -- I think it was five weeks ago.  
12 Right?

13 A Right.

14 Q Can you turn to Page 31, Line 5? And let me know when  
15 you're there.

16 A I'm there.

17 Q And were you asked the following question last month  
18 and did you give the following answer?

19 Question, "And we didn't see in this white paper  
20 anything remotely close to the model that you came up with  
21 in this litigation, correct?"

22 Answer, "I believe that's true."

23 Were you asked that question and did you give that  
24 answer?

25 A I did.

1 Q Now, the model -- and the model that you used in this  
2 report is nowhere described in your pre-litigation  
3 allocation white paper, right?

4 A That's correct.

5 Q This is something you came up with for litigation,  
6 right?

7 A This was something I came up with for litigation, yes.

8 Q And in your white paper, the allocation factors you  
9 used were two health expenses -- two health expense series,  
10 three law enforcement and judicial, the number of opioids  
11 prescribed, and the number of deaths resulting from  
12 overdose. Is that right?

13 A That's one of several, yes.

14 Q Okay. And again, that's different from the allocation  
15 model that you have now presented today, right?

16 A That's correct.

17 Q And you have fair hypotheticals in your Fair White  
18 Paper, do you not?

19 A I do.

20 Q And you didn't use any of the intensity or severity  
21 measures in those models that you are offering in your  
22 report, right?

23 A Correct.

24 Q And just to complete this subject, the model that  
25 you've proposed has not been proposed by anyone else, has

1 it?

2 A Not that I'm aware.

3 Q Okay. And in developing this model, you didn't call up  
4 any experts and ask for any input, did you?

5 A No.

6 Q Okay. Let's talk now about the issue of the importance  
7 of putting in place a plan now. You understand the  
8 importance of consensual resolution in bankruptcy matters,  
9 right?

10 A Yes.

11 Q And you understand the importance of an abatement  
12 program in the context of this case, do you not?

13 A I do.

14 Q And would you agree that hundreds of thousands of  
15 people have died since 1996 on account of opioid addiction  
16 and abuse?

17 A I do.

18 Q And the more time that this problem festers without  
19 additional spending on opioid abatement, the worse the  
20 problem will become, right?

21 A Relative to no resolution, yes, I agree.

22 Q And settlement provides certainty, at least this  
23 settlement provides certainty and immediate commencement of  
24 spending on abatement, does it not?

25 A I don't actually know that. And it's a -- I think

1 you're asking me to describe something that I would call a  
2 legal conclusion. I don't know how rapidly it comes into  
3 play.

4 Q That's fine. You also issued a PowerPoint or published  
5 a PowerPoint in June 2019, correct?

6 A No. We discussed this before. I didn't issue the  
7 PowerPoint.

8 Q Well, you're saying you didn't issue it because there  
9 are three authors, right?

10 A Well, no. Actually, it's because the parent company  
11 that hosted the conference issued it by taking three papers  
12 and combining them.

13 Q Okay. Well, let's just go to -- can you pull out that  
14 document, which is Exhibit 389? And let me know when you  
15 have the document.

16 A I am there. Thank you.

17 Q Okay. And can you turn to Slide 12? Let me know when  
18 you're there.

19 A I am there, thank you.

20 Q And by the way, you prepared this slide, did you not?

21 A I did.

22 Q Can you read the first bullet for the court?

23 A "Spending more NOW in the effective way will reduce  
24 future damages."

25 Q And you capitalized one of the words in that bullet,



1 did you not?

2 A Yes.

3 Q What word is that?

4 A Now.

5 Q And you stand by this statement in this slide, right?

6 A Yes.

7 Q Now, your white paper has a series of allocation  
8 examples, right?

9 A I'm sorry, which -- there's four white papers. Are you  
10 talking about the (indiscernible) white paper or the others?

11 Q Well, your allocation white paper.

12 A Yes.

13 Q Okay. And the bankruptcy plan has another allocation  
14 plan, does it not?

15 A Yes.

16 Q And then you've got your allocation plan, correct?

17 A Yes.

18 Q And would you agree with me, sir, that none of these  
19 plans are ineffective with the sole exception of the fact  
20 that California is not contributing to the Oner Percent  
21 Intensity Fund?

22 A Mr. Wagner, I'm sorry, you kind of cut out there a  
23 little bit. So could you just repeat your question?

24 Q I'm sorry. And I don't know whether there are people  
25 who aren't muted. But would you agree with me that none of

1 these plans are ineffective in your view with the sole  
2 exception of the fact that California is not contributing to  
3 the One Percent Intensity Fund?

4 A I would agree with that.

5 Q Okay. And we'll get to California a bit later. We're  
6 making good progress. But although you would prefer your  
7 plan, you would prefer to see the bankruptcy plan put in  
8 place than no plan put in place, right?

9 MR. POPOFSKY: Your Honor, I object to that  
10 question. It's way beyond the scope of the direct  
11 testimony. And it's irrelevant to this examination.

12 MR. WAGNER: I don't think it's irrelevant at all,  
13 Your Honor.

14 THE COURT: I don't think it's irrelevant. And  
15 the expert report compares the bankruptcy plan allocation to  
16 the proposed allocation by Mr. Cowan. So I don't think it's  
17 beyond the direct, either.

18 BY MR. WAGNER:

19 Q You can answer.

20 A Thank you, Your Honor. I would -- I would agree with  
21 the statement that it would be better to have a plan than no  
22 plan.

23 Q And when you say a plan, we're talking about -- just so  
24 that it's clear, we're talking about the bankruptcy plan,  
25 right?

1 A Yes.

2 Q Okay. Now let's turn to a slightly different topic.

3 Would you agree with me that as set out in your white  
4 papers, that damages, abatement, and allocation are a  
5 package consideration?

6 A Yes.

7 Q And in fact one of your white papers was on the topic  
8 of abatement, was it not?

9 A Yes, it was.

10 Q Okay. And you have no quarrel with the abatement plan  
11 in the bankruptcy, correct?

12 A As I understand it, yes.

13 Q And you have no quarrel with the amount of the  
14 settlement?

15 A I do not.

16 Q You have no quarrel with any of the payment terms,  
17 right?

18 A I do not.

19 Q You are not opining on the Sackler's contribution, are  
20 you?

21 A No, I am not.

22 Q Your only criticism is with respect to allocation, is  
23 it not?

24 A That's correct.

25 Q Okay. Now let's focus on your criticism with respect

1 to the use of population. Am I right that you have written  
2 in your white papers that, quote, "Large communities likely  
3 should receive more than small communities"? Did you write  
4 that in one of your white papers?

5 A I did. I said likely.

6 Q Okay. And you've been retained on behalf of West  
7 Virginia, correct?

8 A Yes.

9 Q And do you understand that West Virginia itself has  
10 programs in place to allocate funds to communities and  
11 locales based on population?

12 A Actually, I believe I said I wasn't aware of that in my  
13 deposition.

14 Q Well, that's your understanding, is it not?

15 A I don't think I've discussed this with West Virginia.  
16 So I just don't have an opinion on this.

17 Q Okay. Can you turn to your deposition, Page 84, Line 2  
18 to 7? Just let me know when you're there.

19 A Okay. I'm sorry, Page 84?

20 Q Page 84, Line 2. Tell me when you're there.

21 A I am there.

22 Q Okay. And were you asked the following question and  
23 did you give the following answer?

24 Question, "Did you look at whether West Virginia has  
25 programs in place that allocate funds to communities and

1 locales based on population?"

2 Answer, "I didn't look at that, but that is my  
3 understanding."

4 Were you asked that question and did you give that  
5 answer?

6 A I did.

7 Q All right. Let's turn now to the bankruptcy plan and  
8 the issue of intensity and severity measures. You state in  
9 Paragraph 19 of your report that there are three vital  
10 statistics to model the need for opioid abatement resources;  
11 drug-related deaths, substance abuse disorders, and the  
12 amount of prescription opioid drugs. Is that a fair  
13 characterization of Paragraph --

14 A Yes.

15 Q Yes?

16 A I'm sorry, I didn't mean to interrupt you. Yes.

17 Q Okay. And am I right, sir, that level of pain reliever  
18 use disorder is a measure of intensity?

19 A The level of pain use?

20 Q Yeah. Level of pain reliever use disorder is a measure  
21 of intensity.

22 A I'm sorry, I believe you're combining two terms. I  
23 think of level as a total -- there is a ratio of pain use  
24 disorder to measure the intensity.

25 Q That's fair. That's fair. And thank you for

1 correcting me. And would you agree with me that the ratio  
2 of overdoses deaths is also a measure of intensity?

3 A If it's the ratio of overdose deaths to the population  
4 in the same state, yes, it is.

5 Q Okay. And now I'm going to ask you a hypothetical, the  
6 same one I asked you at your deposition. And hopefully  
7 we'll get the same answer. And, sir, this will be the only  
8 hypothetical I ask you, so just bear with me.

9 Assuming that West Virginia has one percent of the  
10 nation's population and California has ten percent of the  
11 nation's population, and if overdose deaths in West Virginia  
12 are twice the level per capita as compared to California, am  
13 I right that if you use the ratio of overdose deaths as a  
14 factor, then West Virginia would obtain more funding than it  
15 otherwise would if population alone were used as a factor?

16 A In that hypothetical, yes.

17 Q All right. Now, in the -- I'm right in the bankruptcy  
18 plan, there is an 85 percent piece and there is a 15 percent  
19 piece, right?

20 A Yes.

21 Q Okay. So let's talk about the 85 percent piece first.  
22 Am I right that drug-related deaths are 22 percent of that  
23 first 85 percent?

24 A Yes.

25 Q And am I right that the number of persons suffering

1 from opioid use disorder, that's another 22 percent of the  
2 85 percent?

3 A Yes.

4 Q And for the remaining 15 percent under the plan, that  
5 piece is based on opioid use disorder, overdose deaths, and  
6 opioid morphine milligram equivalents, right?

7 A Yes.

8 Q Okay. And while you -- those are all intensity  
9 measures, right?

10 A Not the way you describe them. Those were all totals.

11 Q Okay. Well, let's assume that they are rates.

12 A I'm sorry, is this a hypothetical again?

13 Q No. This is I think the way they are treated. Well,  
14 let me ask you this question. Am I right that while you may  
15 have a quarrel that these factors, these three are only used  
16 in 15 percent, you have no quarrel with the use of these  
17 three factors?

18 A As intensity measures, I don't. As totals as in the  
19 Denver Plan, I do.

20 Q Okay. Well, we'll get to the Denver Plan in a little  
21 bit. I want to focus now on how West Virginia is treated  
22 here.

23 Now, you say in Paragraph 4 of your report that the  
24 model takes a more reasonable approach and is more equitable  
25 than the bankruptcy plan, right?

1 A I do.

2 Q Okay. But if the allocation in the bankruptcy plan  
3 were based solely on pro-rata population, then West Virginia  
4 would be receiving less than it would under the bankruptcy  
5 plan, right?

6 A Yes.

7 Q And West Virginia's share of the population in the 2020  
8 census is -- and I know you'll take my word for it -- it's a  
9 shade over a half a percent, right?

10 A Yes.

11 Q Okay. But under the plan, West Virginia -- the  
12 bankruptcy plan, West Virginia is receiving -- would receive  
13 1.16 percent, right?

14 A That's correct.

15 Q Okay. So that's more than twice the share of its  
16 population, right?

17 A Yes.

18 Q And would you agree with me that the bankruptcy plan  
19 model which gives West Virginia 1.16 percent is more fair to  
20 West Virginia than merely allocating based on population?

21 A Yes.

22 Q And you are familiar with the National Tobacco  
23 Settlement?

24 A I am.

25 Q Okay. And you are aware that population was a factor



1 in allocating settlement funds under that settlement?

2 A I am.

3 Q And will you take my word for it, and we saw it at your  
4 deposition, that in that settlement, West Virginia got 0.886  
5 percent?

6 A Yes, I would agree.

7 Q Okay. And that's less than the percentage that West  
8 Virginia is getting in the current bankruptcy plan, right?

9 A That's correct.

10 Q Okay. And that was a settlement in the late 1990s or  
11 early 2000. I think it was the late 1990s, right?

12 A Yes.

13 Q And West Virginia, for better or for worse, has  
14 certainly lost population since then, right?

15 A They have.

16 Q Okay. Now I want to go back to your 2019 presentation.  
17 That's Exhibit 389.

18 A Thank you.

19 Q And let me know when you're there. I'd like you to  
20 turn to Slide 11.

21 A I am there. Thank you.

22 Q Okay. And you state there -- can you read the first  
23 bullet?

24 A "There are dilution returns to expenditures."

25 Q And you can skip the second bullet, but can you read

1 the third and fourth bullets?

2 A "Modest increases in expenditures will have limited  
3 value." We don't know where this -- that was one below  
4 that, I'm sorry. The other bullet you'd like me to read is,  
5 "We don't know where this downturn occurs without some  
6 research."

7 Q And you have not done any research on the impact of  
8 additional spending in connection with the report that you  
9 issued, correct?

10 A That is correct.

11 Q Okay. And can you turn now back to your Fair White  
12 Paper? Let me know when you have it. That's Exhibit 392.

13 A I am there, thank you.

14 Q Okay. And can you turn to Page 11? Let me know when  
15 you're there.

16 A I'm there.

17 Q Okay. And you see on the right side of the page you  
18 have a heading, How Much Fairness.

19 A Yes.

20 Q And can you read the second paragraph for the record  
21 under that heading?

22 A "However, it is likely that there are diminishing  
23 returns to more expenditures. Equal treatment in terms of  
24 offerings may not translate into increased efficacy. In  
25 short, just spending more to achieve equality may not be the

1 best outcome."

2 Q Okay. Now I want to turn to another subject, one that  
3 you are an expert on. And that's data collection issues.  
4 You have written papers on data collection issues, right?

5 A I have.

6 Q Okay. For example, you wrote a 1998 paper on what you  
7 call rare and elusive populations, right?

8 A Yes.

9 Q Okay. And can you explain for the Court what an  
10 elusive population is?

11 A An elusive population would be a population like the  
12 homeless, who sometimes don't want to be found. And  
13 certainly they're not in a location necessarily where they  
14 are readily counted. Even those who are in shelters move  
15 from shelter to shelter and from city to city over time. So  
16 the homeless would be an elusive population.

17 Q Okay. And would you agree with me, Dr. Cowan, that the  
18 population of opioid users is hard to count?

19 A Yes.

20 Q And in some respects, the population of opioid users is  
21 elusive?

22 A I would agree.

23 Q Okay. And you would agree with me also that the  
24 difficulty in counting opioid deaths should have a bearing  
25 on the issues here?

1 A I'm sorry, you jumped from opioid users to opioid  
2 deaths.

3 Q Yes.

4 A I do agree that there is some difficulty in counting  
5 the opioid deaths because of poor recording. But, yes, it  
6 should have some bearing.

7 Q Okay. Now I want to turn to -- and we are I think  
8 almost done. But I want to talk about your plan and factors  
9 that are or are not taken into account in your plan. Are  
10 you with me?

11 A I am.

12 Q Am I right that your plan assumes that payments would  
13 be made over ten years just like in the bankruptcy plan?

14 A I'm sorry, somebody else was speaking and I missed part  
15 of what you said, Mr. Wagner.

16 Q I'm sorry. Your plan, like the bankruptcy plan,  
17 assumes that payments will be made over a ten-year period.

18 A Yes, I do.

19 Q And am I right that your plan doesn't take into account  
20 the prospect that opioid users may move from state to state?

21 A Actually, when you asked me that, I corrected my  
22 response and said the assumption is made that they move from  
23 state to state at the same rate as non-opioid users.

24 Q Well, can you turn to your deposition, Page 84, Line  
25 19? Just let me know when you're there.

1 A I am at Line 19.

2 Q Okay. And were you asked the following question and  
3 did you give the following answer?

4 Question, "Did your plan take into account or factor in  
5 the prospect that opioid users can move from state to  
6 state?"

7 Answer, "No."

8 Were you asked that question and did you give that  
9 answer?

10 A I did. And on the very next page in Line 3, I said,  
11 "May I amend my previous response?"

12 You said sure. And I said, "What I actually assume is  
13 that opioid users and non-opioid users were moving at the  
14 same rate between states. So I apologize."

15 Q That's fine. And I'm sorry, I didn't mean to -- I  
16 didn't mean to constrain your testimony. But again, would  
17 you agree with me that you're aware that no state has been  
18 losing population as severely as West Virginia?

19 A It's because they're dying.

20 Q Can you just answer my question?

21 A Sure. They have the highest death rate of any state.

22 Q Not my question.

23 A Well, that's the answer to your question, though.

24 You've asked me am I aware that they have the greatest loss  
25 of population. And the answer is yes. They're dying.

1 Q Okay. You didn't put anything in your report about the  
2 statistics of the number of West Virginians who passed away,  
3 did you?

4 A No. That's as a result of you asking me that question  
5 during the deposition.

6 Q Okay. But anyway, in all -- and I think you testified  
7 to this. All other things being equal, he would expect that  
8 opioid users would move out of West Virginia at the same  
9 rate as non-opioid users.

10 A Indeed.

11 Q Okay. And your plan doesn't take into account the  
12 prospect of migration of opioid users out of West Virginia,  
13 does it?

14 A It doesn't take account of migration of any population.

15 Q Okay. And your plan doesn't take into account relative  
16 law enforcement costs occasioned by the crisis?

17 A Not directly, no.

18 Q Okay. And that was actually a factor you used in your  
19 allocation hypothetical and your white paper, right?

20 A Yes.

21 Q And your plan doesn't take into account different costs  
22 and cost structures within each state, does it?

23 A No, it does not.

24 Q And it doesn't take into account different levels of  
25 infrastructure already in place in each state, does it?

1 A It does not.

2 Q It does not take into account spending that's already  
3 been undertaken by each state, does it?

4 A It does not.

5 Q It doesn't take into account the level of federal  
6 spending on abatement already in place in each state?

7 A It does not.

8 Q And it doesn't take into account potential changes in  
9 rates of severity and intensity over time, does it?

10 A It does not.

11 Q And whatever -- by the way, states also spend  
12 internally on opioid abatement, do they not?

13 A Yes.

14 Q And whatever spending is going to come from this  
15 bankruptcy plan, assuming it gets approved, is on top of the  
16 state and federal spending, is it not?

17 A Yes.

18 Q Okay. Now, I'm right, sir, there has been no empirical  
19 research done on your proposed allocation, has there been?

20 A There is no research on any allocation.

21 Q Okay, fair statement. And would you also agree that  
22 there is an element of guesswork with respect to the  
23 effectiveness of all of these plans?

24 A I agree.

25 Q All right. Now, just a little bit more. I want to go

1 back to the statement in your white paper that, quote,  
2 "Large communities likely should receive more than small  
3 communities." Do you remember that statement that you made?

4 A I do.

5 Q Okay. Your plan has some pretty odd numbers, doesn't  
6 it?

7 A It depends on your definition of odd.

8 Q Okay. Well, let's look at a few of these. Under your  
9 plan --

10 MR. WAGNER: And this is -- Your Honor, I'm not  
11 going to have any quarrel with Dr. Cowan because we went  
12 over this before. But it's the last couple of pages of his  
13 report. And I'll do the same with all of these numbers.  
14 And I also have an exhibit, Your Honor, it's Exhibit 396,  
15 which lists population for various states. But Dr. Cowan is  
16 not going to quarrel with any of that. So let me just go  
17 through these briefly.

18 BY MR. WAGNER:

19 Q Am I right that under your plan, Texas gets 3.25  
20 percent?

21 A I believe that's correct.

22 Q Okay. And the state's population, you'll take my word  
23 for it, is 29 million and has grown dramatically between  
24 2010 and 2020, right?

25 A Yes.



1 Q Okay. The State of Washington, with a population of 7  
2 million, or about one-fourth the size of Texas under your  
3 plan gets more money than Texas, does it not?

4 A Yes.

5 Q Okay. And you've seen articles about the difficulty of  
6 measuring opioid abuse and opioid deaths in Texas, have you  
7 not?

8 A Well, not just Texas. I've seen articles on the  
9 difficulty in many states.

10 Q And one of those states is Texas, right?

11 A Yes.

12 Q Okay. And New York has a population of 20 million.  
13 Kentucky has a population of four-and-a-half million, or  
14 about a quarter of New York. And under your plan, New York  
15 gets 2.98 percent, but Kentucky, with one-fourth the  
16 population of New York, gets 3.56 percent. Is that right?

17 A Yes.

18 Q And under your plan, California, with a population of  
19 40 million, gets 6.75 percent, right?

20 A Yes.

21 Q And Ohio, with a population of about a fourth of  
22 California, gets more money than California, right?

23 A Yes.

24 Q Okay. And your client, West Virginia, has a population  
25 in the 2020 census of 1.79 million, right?

1 A Yes.

2 Q And for better or for worse -- and you've identified  
3 the high death rate there. But for better or for worse,  
4 West Virginia's population has been materially declining  
5 over time, is it not?

6 A As with other states, yes.

7 Q Okay. Well, one of the states that hasn't declined in  
8 population is the neighboring state of Virginia, right?

9 A Yes.

10 Q And Virginia actually has a population that's four  
11 times the size of West Virginia, right?

12 A Yes.

13 Q And it's a state that's growing rapidly in population,  
14 right?

15 A I agree.

16 Q Okay. And under your plan, Virginia, with four times  
17 the population, gets less than your client, West Virginia.  
18 Does it not?

19 A Yes.

20 Q And again, West Virginia is a neighboring -- Virginia  
21 is a neighboring state to West Virginia, right?

22 A Yes, it is.

23 Q And you would expect over time that some West Virginia  
24 opioid users might move to Virginia over the next ten years?

25 A I expect opioid users to move from every state to every

1 other state.

2 Q One of the -- well, we're going to move off of this  
3 topic now. Just a few more. Just a little bit more, sir.  
4 One of the criticisms you have of the bankruptcy plan is  
5 that it's complicated, right?

6 A I'm sorry, I heard everything up until the last four  
7 words.

8 Q Okay, I'm sorry. One of your criticisms of the  
9 bankruptcy plan is that it is complicated, right?

10 A Yes.

11 Q Okay. Your plan contains six separate steps, correct?

12 A Yes.

13 Q Okay. I want to now focus on what you call the Denver  
14 Plan, which you reference on occasion in your report. Can  
15 you turn to your report? It's Figure 2 on Page 30. Let me  
16 know when you have it.

17 A Thank you. I am there.

18 Q Okay. And you see in Paragraph 82 based on the graph,  
19 quote, "The Denver Plan is extremely close to a plan based  
20 only on population." Do you see that?

21 A Yes.

22 Q But would you agree with me, sir, that the Denver Plan  
23 is not the entirety of the NOAT plan or the bankruptcy plan  
24 that's before the Court?

25 A You characterized it during the deposition as being

1 only 85 percent of the total (indiscernible) plan.

2 Q But there's another 15 percent that's allocated based  
3 on intensity measures, is there not?

4 A They're not intensity measures as I understood it in  
5 the description that's given elsewhere in my report. They  
6 are also levels and they are correlated with population.

7 Q Okay. But whatever it is, when you did the graph on  
8 Page 81 -- I'm sorry, in Paragraph 81 or whatever, between  
9 81 and 82, you didn't graph a NOAT plan against population,  
10 you graphed the Denver Plan, correct?

11 A Yes, because it's 85 percent of the overall plan.

12 Q So you left out the 15 percent?

13 A Well, the 15 percent we just agreed was also based on  
14 similar measures that are totals that are related to  
15 population. So I don't think the chart would change much.

16 Q Well, that's not true, is it?

17 A Well, I would have to search in my report to see what  
18 that is. But it's clearly documented in my report.

19 Q Okay. Well, let's turn to Table 3 then. That's on  
20 Page 32.

21 A I'm sorry, Table 3 in my report?

22 Q Yeah, Table 3, Page 32.

23 A Yes, I'm there. Thank you.

24 Q Okay. And do you see you did a chart comparing the  
25 Denver Plan allocation to the Federal Plan and you listed

1 West Virginia as 0.97 percent. Do you see that?

2 A Yes.

3 Q That's not the amount West Virginia is getting under  
4 the bankruptcy plan, is it?

5 A No, that's the proportion that came out of the Denver  
6 Plan.

7 Q Okay. But under the bankruptcy plan, West Virginia is  
8 getting a number that's 20 percent higher of what you listed  
9 in this chart.

10 A I understand that. But I was clear in the way I  
11 labeled this and in my description in the previous paragraph  
12 that I was describing what was going on in the Denver plan  
13 and the reason that I thought the Denver Plan was not a  
14 reasonable contribution.

15 Q Okay. But whatever it is, the inclusion of that  
16 additional 15 percent pulled up the West Virginia number in  
17 the bankruptcy plan from .097 to 1.16 percent, did it not?

18 A I agree.

19 Q Okay. And that's an increase of about 20 percent, is  
20 it not?

21 A Well, now you're taking a ratio of a percent of  
22 percent, which isn't actually a percent. So, sorry.

23 Q Okay. Now I want to talk about California and your  
24 statement that the failure to contribute is ineffective.

25 Under the bankruptcy plan, California is getting 9.9 percent

1 of the distribution, of the funds. Right?

2 A Yes.

3 Q And will you take my word for it, as you did at the  
4 deposition, that California has the highest percentage share  
5 of expenditures on criminal justice with respect to the  
6 opioid crisis?

7 A Yes. I believe it was 18 percent.

8 Q Okay. And spending on criminal justice could be --  
9 could be -- it's not in the bankruptcy plan, but it could be  
10 an element of a future-looking abatement plan, right?

11 A It could be.

12 Q Okay. And again, you just referenced it, but in your  
13 allocation white paper, you reported that California's  
14 expenditures on opioid-related law enforcement were 18  
15 percent of the total in the nation, right?

16 A Yes.

17 Q But under this plan, California is getting a little bit  
18 more than half of that 18 percent, right?

19 A Well, you're reporting the overall plan plus all of the  
20 components of the plan (indiscernible) component. So I  
21 don't think that's a fair comparison.

22 Q Okay. But whatever it is, California is not getting  
23 eight percent under the plan, it's getting 9.9 percent,  
24 right?

25 A I believe -- I may have misheard you. California is

1 not getting 18 percent. You are correct.

2 Q Okay.

3 A They're getting nine percent. But the criminal justice  
4 expenditures are a small portion of the overall expenditures  
5 made by any state.

6 Q Got it. That's fair. I just have one more series of  
7 questions.

8 In your pre-litigation allocation models, you have an  
9 entry for West Virginia, do you not?

10 A I'm sorry, would you ask me that again?

11 Q Yeah. Let me -- I don't want there to be any  
12 uncertainty. And again, these will be my last questions.  
13 If you look at Exhibit 388, that's the allocation white  
14 paper. And just let me know when you have it. And I'd like  
15 to turn you to Page 9.

16 A Thank you. I am there.

17 Q And by the way, Dr. Cowan, thank you for your patience  
18 today. I know you had some trouble signing on. And the  
19 technology is frustrating, but I appreciate your patience.  
20 And Mr. Cahn, I appreciate yours as well.

21 A Mr. Wagner, thank you. I have to say that the tropical  
22 storm Fred that came through here yesterday didn't help  
23 anything.

24 Q And I understand you've recently moved.

25 A I have.

1 Q So I hope it all works out for you.

2 A Thank you very much.

3 Q Okay. If you turn to Page 9, you have -- there you  
4 have an allocation hypothetical, right? Allocation of  
5 hypothetical damages awarded to the 50 states and D.C. Do  
6 you see that?

7 A Yes.

8 Q and there you have an entry for West Virginia. It's a  
9 little bit to see, on the bottom left. But I think we  
10 established at your deposition that the range of allocation  
11 in this model in your allocation white paper is between one  
12 and one-and-a-half percent, right?

13 A Yes.

14 Q Okay. And under the bankruptcy plan, West Virginia is  
15 actually getting a number between one and one-and-a-half  
16 percent, correct?

17 A That is correct.

18 Q Okay. And then after you wrote this white paper, you  
19 were retained by West Virginia, were you not?

20 A I was.

21 Q Okay. And now you've issued a report in which West  
22 Virginia is supposed to get 1.86 percent, correct?

23 A Yes.

24 Q Okay.

25 MR. WAGNER: No further questions, Your Honor.



1 THE COURT: Okay. Does anyone else want to cross-  
2 examine Mr. Cowan?

3 MR. OZMENT: Your Honor, this is Frank Ozment, and  
4 I do have a few questions. I know it's late, and I'll try  
5 to be quick.

6 THE COURT: Okay.

7 MR. OZMENT: Thank you.

8 CROSS-EXAMINATION OF CHARLES COWAN

9 BY MR. OZMENT:

10 Q Dr. Cowan, you mentioned that you had some early  
11 publications regarding techniques for measuring furtive  
12 populations. Do you remember that testimony?

13 A I'm sorry, did you say furtive?

14 Q Furtive or elusive.

15 THE COURT: Elusive.

16 BY MR. OZMENT:

17 A Yeah, elusive.

18 Q Yeah.

19 A I did.

20 Q Did any of that work have to do with, you know,  
21 locating people who perhaps had been homeless but wound up  
22 in prison?

23 A A long time ago, yes.

24 Q And is it fair to say that once they wind up in prison,  
25 you can fairly easily locate them, correct?

1 A Actually, I'm doing some work on prisons right now, and  
2 I would still argue that they're not quite as easy to find  
3 as some of the general population. Especially if they were  
4 homeless in the first place, you may not have a good  
5 identifier for them. Once you know that they're in prison,  
6 then yes. But you'd have to actually know that they're in  
7 prison.

8 Q Okay. And once you know they're in prison, do you have  
9 some judgement about how frequent or how likely they are to  
10 be opioid use disorder victims?

11 A This would be my opinion not based on any research of  
12 my own.

13 Q Go ahead.

14 A Okay. They're more likely to be opioid users.

15 Q Okay. That's a fairly dense concentration of opioid  
16 use disorder victims, right?

17 A Well, I'm sorry, that's a relative term. When you say  
18 it's a dense...

19 Q Right. In other words, as a percentage of the  
20 population (indiscernible) more likely to be opioid  
21 (indiscernible), aren't they?

22 A I believe that's correct, yes.

23 Q Are you familiar with any statistics regarding exactly  
24 how frequent opioid use disorder (indiscernible) in the  
25 prison population?

1 A While they're incarcerated?

2 Q Right.

3 A No.

4 Q Okay. There was also some discussion regarding  
5 migration from state to state and place to place. That  
6 population is unlikely to migrate, isn't it?

7 A I'm sorry, which population? The prison population?

8 Q Right. When in prison, isn't it?

9 A Well, I don't know what the rate of transfer is from  
10 prison to prison. And I know it's non-zero, but it would be  
11 way less than the general population.

12 Q Right. There has been some discussion regarding  
13 abatement. And we don't always define that term as we're  
14 having conversation about it. But would your definition of  
15 abatement include stopping people who are -- let me recast  
16 that question. Would your definition of abatement include  
17 helping people who are opioid use disorder victims to  
18 discontinue or to manage their opioid use?

19 A Yes.

20 Q And is it fair to say that's a fairly expensive  
21 proposition?

22 A Yes.

23 Q Do you know any offhand figures for how much that costs  
24 for a typical patient on an outpatient basis?

25 A In --

1 MR. HUEBNER: Your Honor, Your Honor, sorry. Sir,  
2 Mr. Cowan. Your Honor, this -- I'm going to object. This  
3 is so far beyond the scope of the testimony and direct. You  
4 know, the cost to the estate and to abatement of these  
5 proceedings is tens of thousands of dollars an hour --

6 THE COURT: Right. No, I --

7 MR. HUEBNER: -- given how many law firms we're  
8 paying for.

9 THE COURT: I understood --

10 MR. HUEBNER: And these objectors are taking  
11 depositions.

12 THE COURT: It is beyond the direct and the cross  
13 I think, Mr. Ozment. This is really in essence free  
14 discovery, which --

15 MR. HUEBNER: Thank you, Your Honor.

16 THE COURT: Which isn't really appropriate at this  
17 stage of the case.

18 BY MR. OZMENT:

19 Q You were mentioning as a measurement for frequency --  
20 I'm sorry, a measurement of severity deaths attributable to  
21 overdose. Is that death attributable to overdose  
22 exclusively opioids, or is it (indiscernible).

23 A Is deaths attributable to opioids as a severity  
24 measure, that would be (indiscernible) deaths.

25 Q Okay. I guess what I'm trying to get from you is are

1 you looking at that severity measure as one that is  
2 reflecting only deaths from opioid use, or does it reflect  
3 deaths from other drugs? I think I understand where you are  
4 on that, but I just want to clarify.

5 A For severity, the denominator is all deaths, my  
6 understanding, and the numerator is deaths from opioids or  
7 anything that the county coroner or medical examiner or  
8 whatever is appropriate for the jurisdiction rules as a  
9 death that's related to opioids, fentanyl, or anything else  
10 that falls into that category.

11 Q Right. It's not including alcohol poisoning and things  
12 of that nature.

13 A It is not.

14 Q Thank you. So when you're looking at that as a measure  
15 of severity for distributing assets for abatement, is it  
16 fair to say that by the time somebody dies, the cost of  
17 abatement ends?

18 A I don't know that in part because I don't know what  
19 states have in place for dealing with families who are still  
20 suffering from the after effects. I know in Texas, for  
21 example, that that expense continues. And in particular, it  
22 increases the cost for the foster child system.

23 Q But in terms of stopping or managing opioid use, it  
24 ends with death, right?

25 A Stopping opioid use. But that was a different question

1 than the one you asked me. The expenses (indiscernible) use  
2 continue on.

3 Q So does your model reflect those expenses?

4 A No. And it wouldn't be -- no, it does not.

5 Q Pretty much impossible to capture that, isn't it?

6 A I don't think so. It just requires more than four  
7 white papers.

8 Q Okay.

9 MR. OZMENT: That's it. Thank you, Your Honor.

10 THE COURT: Okay. Thank you.

11 THE WITNESS: Thank you, Mr. Ozment.

12 THE COURT: All right. I think that's all the  
13 cross. Mr. Cahn, do you have any redirect?

14 MR. CAHN: Yes, Your Honor. Thank you.

15 REDIRECT EXAMINATION OF CHARLES COWAN

16 BY MR. CAHN:

17 Q First of all, can you hear me okay?

18 A You're really light relative to Mr. Wagner. If you  
19 could speak up a little bit or...

20 Q Okay. Let me -- is that any better?

21 A Moderately so, yes.

22 Q Okay. I'll try to shout a little bit more. Mr. Wagner  
23 and Mr. (indiscernible) explains in (indiscernible) opioid  
24 issues. Do you have any (indiscernible) experience in  
25 developing opioid plans?

1 A I'm working with another state and some other entities  
2 like hospitals to develop both abatement plans and also  
3 allocation within a state.

4 Q So these issues are not unfamiliar to you. Is that  
5 correct?

6 A That's correct.

7 Q And Mr. Wagner asked you a series of questions  
8 (indiscernible). He first asked you if you engaged in a  
9 dialogue about whether or not (indiscernible). Do you  
10 recall that discussion?

11 A I'm having a lot of trouble hearing you, Mr. Cahn.  
12 Sorry.

13 Q Sorry.

14 THE COURT: Do you -- let me ask you, Mr. Cahn, do  
15 you have earphones that you can use? Because I think that  
16 may be the issue.

17 MR. CAHN: Not within reach. I apologize. Let me  
18 just try (indiscernible).

19 THE WITNESS: It's not so much you, Mr. Cahn,  
20 there's just some background noise I keep hearing. But go  
21 ahead.

22 MR. CAHN: Well, it is (indiscernible). It's not  
23 coming from my end. (indiscernible).

24 THE COURT: Is everyone else on mute? Okay. Go  
25 ahead, Mr. Cahn.

1 MR. CAHN: Thank you (indiscernible).

2 BY MR. CAHN:

3 Q Sir, do you recall the discussions you had with Mr.  
4 Wagner about the use of the word reasonable?

5 A I heard everything except for the word you want me to  
6 respond to.

7 THE COURT: Use of the word reasonable. The use  
8 of the word reasonable.

9 THE WITNESS: Oh, yes. Thank you, Your Honor.

10 BY MR. CAHN:

11 Q Is reasonable the same thing as appropriate?

12 A I'm going to have to shift into English major mode to  
13 be able to answer these questions. I'm not sure. I  
14 actually don't see that reasonable is exactly the same as  
15 appropriate. Appropriate would be sort of a larger set than  
16 reasonable.

17 Q So in the context of this discussion, a position  
18 concerning, for example, allocation could be reasonable  
19 without necessarily being appropriate. Is that correct?

20 A I could see that, yes.

21 Q And now Mr. Wagner also asked you about the word fair.

22 A Yes.

23 Q Fair is -- withdrawn. I'll move on to something else.  
24 He also asked you about the attorneys general and their  
25 various representatives (indiscernible) over the course of



1 (indiscernible) participated in the formulation of the  
2 allocation, and specifically the Denver Plan. And he asked  
3 you if you thought that they were advocating as best they  
4 could on behalf of their respective states. Do you recall  
5 that discussion?

6 A I do.

7 Q Now, in your mind does advocating on behalf of their  
8 respective states necessarily mean that they're advocating  
9 for the greater good or simply to their respective state?

10 MR. WAGNER: Objection to form.

11 THE COURT: You can answer that question, although  
12 -- well, go ahead. You an answer that question, Mr. Cowan.

13 THE WITNESS: Okay. Thank you, Your Honor.

14 BY MR. CAHN:

15 A In economics, there are a couple of different concepts.  
16 One would be where everybody is looking after themselves, or  
17 in this case advocating for their individual states, versus  
18 considering an underlying common greater good. And I see  
19 those as being different because they wind up being  
20 completely different objective functions in terms of how one  
21 solves for a particular allocation or treatment of a group  
22 of people versus the individual pieces.

23 Q Now, Mr. Wagner also asked you a series of questions  
24 about various white papers that you had written prior to  
25 being engaged for this bankruptcy case. Do you recall that

1 discussion?

2 A Yes.

3 Q Do those white papers (indiscernible) a specific issue,  
4 or were they general discussions of the topic of allocation?

5 MR. WAGNER: Objection. Leading.

6 THE WITNESS: In general based on --

7 THE COURT: Just in the future, Mr. Cahn, don't  
8 lead. Okay?

9 MR. CAHN: Very well, Your Honor.

10 THE COURT: Okay. You can answer this question,  
11 Mr. Cowan.

12 THE WITNESS: Thank you, Your Honor. I'm sorry  
13 that I jumped in there.

14 BY MR. CAHN:

15 A So I would always (indiscernible) as a result of being  
16 invited to speak at a conference on the calculation of  
17 damages. And then when I was at the conference, people  
18 started to talk about allocation issues, then we talked  
19 about abatement issues. And then the word fair was  
20 (indiscernible) quite a bit. So my motivation in writing  
21 these was to respond to things I was hearing at different  
22 conferences and among different groups to whom I was  
23 speaking. So they all came as general pieces of information  
24 not intended for any one audience, but for a broad audience.

25 Q And when you were retained by West Virginia, you were -

1 - I'm sorry. I don't know where the noise is coming from,  
2 but -- okay, I'm trying to (indiscernible). I'm sorry.

3 When you were retained by the State of West Virginia,  
4 did you understand whether or not there was a specific focus  
5 that was being requested in your study?

6 A Only in the sense that in our initial conversations we  
7 had discussions about intensity, severity, the high death  
8 rate in West Virginia, and high expenditures.

9 Q Very well. Now, Mr. Wagner asked you a series, a  
10 lengthy series of questions of various types about the  
11 (indiscernible) population versus intensity or severity. Do  
12 you recall those discussions?

13 A Yes.

14 Q And he asked you whether or not -- he asked you to --  
15 sorry, withdrawn. He asked you whether or not West Virginia  
16 under the bankruptcy plan is receiving more (indiscernible)  
17 percentage of distributions from NOAT trust than its  
18 population bears to the total population of the United  
19 States. Do you recall that?

20 A Yes.

21 Q And do you understand -- I'm sorry, withdrawn. What is  
22 the (indiscernible) your report, what is the relation to the  
23 population to the (indiscernible) and severity measures that  
24 you've identified?

25 A Well, population is the denominator in the intensity

1 measures, which causes it to be somewhat uncorrelated with  
2 population. And so in the way that we had constructed the  
3 allocation, a component of that is still population to  
4 account for the fact that some states have greater  
5 expenditures or greater losses than others. But then  
6 there's an adjustment for intensity that is uncorrelated  
7 with population. And it accounts for the fact that either a  
8 much higher proportion and a much lower proportion of people  
9 are impacted or are affected by opioid use disorder or have  
10 a higher or lower death rate due to opioid.

11 Q So the fact that population -- I'm sorry, did you  
12 finish your answer?

13 A Yes, I did. Thank you.

14 Q Okay. So does the fact that a state has  
15 (indiscernible) population than any other state necessarily  
16 mean that it shouldn't receive more money than that other  
17 state?

18 A I don't see it that way. In the examples that Mr.  
19 Wagner gave, for example, Texas and California had low  
20 intensity. So they have much larger populations. I don't  
21 deny that. However, the intensity of the -- of opioid use  
22 is much greater in West Virginia and in other states like  
23 Ohio. The comparison was made between California and Ohio  
24 and the fact that Ohio was getting more than California.  
25 Well, Ohio had a much greater intensity than did California,

1 which explains why there's a greater allocation to Ohio than  
2 there is to California.

3 Q Thank you. You were also asked a series of questions  
4 about West Virginia's loss of population. Do you recall  
5 those questions?

6 A I do.

7 MR. HUEBNER: Sorry. Mr. Cahn, may I interrupt  
8 one second? With apologies. It is really barely audible.  
9 And this actually only started when you came off mute. If  
10 you do have headphones nearby, it might be worth a 30-second  
11 break to go get them. My concern only for all of us -- in  
12 fact, with you in particular, since presumably you want this  
13 testimony, is that there may not be a transcript that works.  
14 There may be a lot of inaudibles. And if you have a while  
15 to go and it's not difficult, it might make sense.  
16 Otherwise, I leave it to you. But you should know that it  
17 is very, very hard for people to hear, which means the  
18 transcription might be imperfect.

19 MR. CAHN: Mr. Huebner, thank you for that. I  
20 actually don't have very long to go. And forgive me, I  
21 would rather just continue and finish up.

22 MR. HUEBNER: Of course. I'm just a guy. No --

23 MR. CAHN: No, no, no. I -- believe me, I  
24 appreciate very much your input. So, thank you for that.  
25 Let me just continue and see if I can help alleviate the

1 problem.

2 BY MR. CAHN:

3 Q Mr. Ozment (indiscernible) about West Virginia's loss  
4 of population. And I believe you answered that  
5 (indiscernible) of lost population, too.

6 A Yes.

7 Q And regarding (indiscernible) accounts for any loss of  
8 population by West Virginia or any other state?

9 A It does -- my plan does not account for loss of  
10 population in different states (indiscernible) population  
11 for different reasons.

12 Q (indiscernible).

13 THE COURT: You're really fading out now, Mr.  
14 Cahn. We can't hear you.

15 MR. CAHN: Okay.

16 THE COURT: Now we can.

17 MR. CAHN: That's better. Is that better?

18 THE COURT: Yes.

19 MR. CAHN: Okay. We have such a (indiscernible),  
20 Your Honor. I'm so sorry.

21 THE COURT: That's all right.

22 MR. CAHN: I do want (indiscernible). The Zoom  
23 experience (indiscernible) for me, particularly when it  
24 comes to court hearings. So I apologize to Your Honor.

25 THE COURT: That's fine.

1 MR. CAHN: And to everybody else, for that matter.

2 THE COURT: That's fine.

3 BY MR. CAHN:

4 Q I'm sorry, I was asking you, Dr. Cowan, does the Denver  
5 Plan also account for -- the Denver Plan account for various  
6 states' loss of population to your knowledge?

7 A Well, you asked me about the Denver Plan, but none of  
8 the plans accounted for population change.

9 Q Okay. And again, you were also asked -- withdrawn.  
10 You were asked about your statement that the Denver Plan  
11 was, and I quote, complicated. And Mr. Wagner didn't ask  
12 you what you meant by that. So I am asking you, what did  
13 you mean by the fact that it was complicated?

14 A The Denver Plan -- you're asking me about the Denver  
15 Plan, but I'm going to expand this to the (indiscernible)  
16 plan, too. The Denver Plan incorporates many more steps  
17 than the plan that I put forward and some adjustments that  
18 are specific to particular states as opposed to being just a  
19 continuous application of the same methodology with all  
20 states. So it's complicated both in the number of steps and  
21 also complicated in terms of the specific application to --  
22 for example, the 12 most intense states.

23 Q Very well. And last question, Dr. Cowan  
24 (indiscernible). Mr. Wagner asked you if you would prefer a  
25 plan to no plan. And you answered I believe that you would

1 prefer a plan to no plan. Is that correct?

2 A Yes.

3 Q So (indiscernible) ask you if you would prefer a plan  
4 which doesn't employ the factors that you've identified as  
5 the most critical to a proper allocation of funds  
6 (indiscernible).

7 A Well, I think to simplify that, I would just say that I  
8 would prefer a plan that relies on intensity measures and  
9 severity measures rather than a plan that is heavily  
10 dependent on levels, like the size of the population.  
11 Whether it's part of the plan or overall, levels aren't  
12 measuring something specific to the cost of abatement or the  
13 population of people who are affected, it measures a class  
14 that's relative to the entire population, which include many  
15 people who are not affected by opioids.

16 So I would prefer any plan that focused more on  
17 intensity and severity because that's what drives the costs.  
18 And it is the population over the next ten years that would  
19 be subject to treatment as opposed to the full population  
20 within a state.

21 Q Thankyou, Dr. Cowan.

22 MR. CAHN: I have nothing further. And I  
23 apologize to the Court for all of the problems today.

24 THE COURT: That's fine. Thank you.

25 Any redirect on that?



1 MR. WAGNER: You mean recross?

2 THE COURT: I'm sorry. Any recross?

3 MR. WAGNER: I know it's late. No, I have no  
4 further questions. And again, Dr. Cowan, I thank you.

5 THE WITNESS: Thank you. It was good to see you  
6 again, Mr. Wagner.

7 MR. WAGNER: Thank you.

8 MR. OZMENT: Your Honor, with all apologies to Mr.  
9 Huebner, he did testify to one point that I think I'd like  
10 to follow up on very briefly.

11 THE COURT: Okay. Go ahead.

12 RECROSS EXAMINATION OF CHARLES COWAN

13 BY MR. OZMENT:

14 Q Dr. Cowan, did I hear you correct me that you said you  
15 have been engaged to work on allocation plans separate and  
16 apart from this one?

17 A Yes.

18 MR. OZMENT: Your Honor, I think if he is  
19 testifying that he has worked on allocation plans other than  
20 this one and if he's testifying about reasonableness, I  
21 would very humbly ask may I revisit whether he actually  
22 knows how much money it costs to rehabilitate somebody with  
23 opioid use disorder. I'm not gathering this for some sort  
24 of lawsuit. I think it's important to note for purposes of  
25 determining whether his testimony is reasonable.

1 THE COURT: Okay. If you know the answer to that,  
2 you can answer it, Mr. Cowan.

3 THE WITNESS: Thank you, Your Honor.

4 BY MR. OZMENT:

5 A I apologize, Mr. Ozment. I don't mean to make this  
6 more complicated than necessary. But let me point out that  
7 the cost is going to differ from person to person because  
8 there is quite a bit of literature that talks about the  
9 amount of time it takes people to get off of opioids and the  
10 fact that there is a recurrence relationship that's -- I'm  
11 using recurrence in the statistical jargon -- where people  
12 become addicted again and then they have to get off again.  
13 And in some cases, they need training to go find a new job.  
14 Or in other cases, they have a good job, they are well-  
15 trained, they just need to get off of drugs, so they don't  
16 get that kind of training.

17 So it varies quite a bit, but I have heard numbers  
18 anywhere between, you know, for any individual per year, and  
19 this is an annual cost, of \$60,000 to \$100,000. But if you  
20 think about the fact that the average time to get off of  
21 opioids is on average eight years, that adds up to nearly a  
22 million dollars per person.

23 Q Is part of that work that you isolate how much it costs  
24 just for the medicine and the therapy? And by therapy I'm  
25 not talking about job counseling, I'm just talking about the

1 therapy associated with the medicine administration.

2 A I did not.

3 Q Okay. Going to that figure, going to your testimony  
4 about your work in actually putting together an allocation  
5 plan, is that something that you anticipate your client or  
6 customer will actually implement?

7 A Yes.

8 Q And in that case, do we have something or do you have  
9 something that is analogous to the list of people who filed  
10 proofs of claim in this bankruptcy? That is to say a fixed  
11 list of people who might be contacted to determine whether  
12 they need to be or are actually in active recovery?

13 A That's not part of the scope of my assignment.

14 Q Okay. So you don't have that data in that case.

15 A I do not.

16 Q Okay.

17 MR. OZMENT: Thank you, Judge. That's all I've  
18 got.

19 THE COURT: Okay. All right. So I'm not sure I  
20 got the answer to my question, Mr. Wagner. Do you have any  
21 recross on the redirect?

22 MR. WAGNER: I have nothing else.

23 THE COURT: Okay. All right. Thank you, Mr.  
24 Cowan. You can step down. I mean you can sign off

25 THE WITNESS: Thank you, Your Honor. I appreciate

1 it.

2 MR. WAGNER: Dr. Cowan.

3 THE COURT: All right. I think that is a good  
4 stopping point for today. The other two witnesses who we  
5 thought we might get to today are Richard Sackler and  
6 Theresa Sackler. Let me ask before we close for the day, do  
7 the parties have a pretty good idea of the order of  
8 testimony for tomorrow?

9 MR. POPOFSKY: Yes, Your Honor. We'll send that  
10 to you within the next few minutes. We've been emailing  
11 back and forth all day with the various parties. So you we  
12 should have something to you very quickly.

13 THE COURT: Is it contemplated that we'll go  
14 another day beyond tomorrow with testimony?

15 MR. POPOFSKY: Unfortunately, yes, Your Honor.

16 THE COURT: Okay. All right.

17 MR. POPOFSKY: I mean, this isn't debtor-driven,  
18 but the answer is that based on the schedule that's been  
19 submitted, mostly by Mr. Edmunds that has just joined, yes  
20 is the answer.

21 THE COURT: And these are fact witnesses as  
22 opposed to experts?

23 MR. POPOFSKY: Correct, Your Honor. But again,  
24 these aren't our witnesses, so I appreciate you asking the  
25 questions, and I encourage you to do so. But I don't know

1 anything more than what I'm told.

2 THE COURT: Okay. Well, why don't we see where we  
3 go tomorrow. And then we'll talk about Thursday.

4 MR. EDMUNDS: Your Honor, just if I may, I think  
5 that there is a question of availability. I am not sure  
6 that we will go the whole day tomorrow, but I believe that  
7 additional Sackler witnesses are not available until  
8 Thursday. So that's where we are. But --

9 THE COURT: Well, what about --

10 MR. EDMUNDS: (indiscernible) would be the last  
11 witnesses. We do have one additional witness we might call  
12 after the Sackler family testifies, but I think he is a  
13 short witness and I think it would be largely in response to  
14 what happens there.

15 THE COURT: To what happens with regard to the  
16 other witnesses that are to testify, the other Sackler  
17 witnesses?

18 MR. EDMUNDS That's right, Your Honor. That's  
19 right.

20 THE COURT: So is it fair to say that there are a  
21 few Sackler witnesses and then one other witness after that  
22 perhaps?

23 MR. EDMUNDS: That's correct, for the State of  
24 Maryland, Your Honor. I will leave it to Mr. Kaminetzky to  
25 account for anyone else who may be coming in, because I

1 don't know.

2 THE COURT: Okay.

3 MR. POPOFSKY: It's only the State of Maryland,  
4 Your Honor.

5 THE COURT: And it sounds like that witness may or  
6 may not be testifying, so we can't -- it doesn't really make  
7 sense to have that person testify if one of the Sackler  
8 witnesses isn't available tomorrow. Is that fair?

9 MR. EDMUNDS: Correct, Your Honor. Correct.

10 THE COURT: Okay. All right, very well. So we'll  
11 pick up at 10:00 tomorrow. And I will just ask you to do  
12 what you did before, which is submit your -- the exhibits  
13 that you intend to use, and try to do it with the one that  
14 you're actually going to use. We ran off about 500 pages  
15 that weren't used this time and had to change the toner and  
16 almost burn up the copy machine. So if you could try to  
17 make sure that there's a good chance you will use these  
18 exhibits.

19 MR. POPOFSKY: Apologize for that. But, yes, we  
20 will make every effort to do that.

21 THE COURT: Very well. Thank you. We'll see you  
22 all tomorrow then at 10:00.

23 MR. POPOFSKY: Thank you, Your Honor.

24 (Whereupon these proceedings were concluded at  
25 5:57 PM)

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing  
transcript is a true and accurate record of the proceedings.

Sonya

Ledanski Hyde

Digitally signed by Sonya Ledanski  
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Date: August 17, 2021

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